

# HOUSE BILL REPORT

## EHB 1242

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As Amended by Senate

**Title:** An act relating to compensation during industrial insurance appeals.

**Brief Description:** Allowing compensation for injured workers during industrial insurance appeals.

**Sponsors:** Representatives King, Heavey, G. Cole, Jones, Springer and Veloria.

**Brief History:**

Reported by House Committee on:  
Commerce & Labor, January 14, 1994, DPA;  
Passed House, February 14, 1994, 62-33;  
Amended by Senate.

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**HOUSE COMMITTEE ON COMMERCE & LABOR**

**Majority Report:** Do pass as amended. Signed by 6 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Conway; King; Springer and Veloria.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; and Horn.

**Staff:** Chris Cordes (786-7117).

**Background:** Under written departmental policy, the Department of Labor and Industries does not pay benefits to an injured worker while the employer's appeal is pending at the Board of Industrial Insurance Appeals. However, this policy permits the payment of benefits if the issue under appeal does not involve the payment of benefits or the allowance or reopening of the claim, or if the employer's appeal is unfounded. The department's policy states that it is intended to avoid unnecessary department recoupment costs when an appeal is resolved in favor of the employer. If the department pays benefits, all parties to the appeal are notified and the benefits are subject to recoupment.

**Summary of Bill:** If an employer appeals a Department of Labor and Industries' industrial insurance order that grants the injured worker temporary total disability benefits or medical aid benefits, the worker is entitled to provisional

benefits while the case is on appeal before the Board of Industrial Insurance Appeals.

Technical changes are also made to clarify and reorganize the statute.

**EFFECT OF SENATE AMENDMENT(S):** The Senate amendment deletes all provisions relating to compensation for injured workers during an appeal. The amendment leaves in the bill only the technical changes that clarify and reorganize the current statute.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Under current law, undue burden is placed on an employee when an employer appeals a department decision to grant temporary disability benefits. Withholding such benefits during a lengthy appeal process can have serious medical and financial consequences for the worker. Because a majority of workers win the appeal, recoupment is rarely needed.

**Testimony Against:** The bill will not correct any existing problem and it will increase the cost of the workers' compensation system. Self-insurers will be particularly penalized by this bill, as a majority of appeals taken by self-insurers are successful. It is difficult for self-insured employers to recover overpayments made to employees. Under current law, an employee may request a judge to continue benefits during an appeal process.

**Witnesses:** (In favor) Jeff Johnson, Washington State Labor Council; Robby Stern, Washington State Labor Council; Allan Darr, Washington State Building and Construction Trades Council and International Union of Operating Engineers; and Dennis Martin, Washington State Trial Lawyers' Association. (Opposed) Gary Smith, Independent Business Association; and Lee Eberle, Washington Self-Insurers' Association. (Neutral) Frank Fennerty, Board of Industrial Insurance Appeals.

**VOTE ON FINAL PASSAGE:**

Yeas 62; Nays 33; Excused 2; Absent 1

Nays: Representatives Backlund, Ballard, Brumsickle, Carlson, Casada, Chandler, Cooke, Dyer, Edmondson, Foreman, Forner, Fuhrman, Hansen, Horn, Lemmon, Lisk, Long, McMorris, Mielke, Padden, Rayburn, Reams, Schoesler, Sehlin, Sheahan,

Sheldon, Silver, Stevens, Talcott, Tate, B. Thomas, L.  
Thomas, Van Luven

Excused: Representatives Cothern, Riley

Absent: Representative Springer