

**SENATE BILL REPORT**

**SHB 1243**

**AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, FEBRUARY 25, 1994**

**Brief Description:** Making technical changes to the statute governing reconsideration of industrial insurance orders.

**SPONSORS:** House Committee on Commerce & Labor (originally sponsored by Representatives King, Heavey, G. Cole, Jones and Veloria)

**HOUSE COMMITTEE ON COMMERCE & LABOR**

**SENATE COMMITTEE ON LABOR & COMMERCE**

**Majority Report:** Do pass.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Fraser, McAuliffe, Pelz, Sutherland and Vognild.

**Staff:** David Cheal (786-7576)

**Hearing Dates:** February 21, 1994; February 25, 1994

**BACKGROUND:**

Workers, employers, and other parties aggrieved by Department of Labor and Industries' industrial insurance orders are entitled to request reconsideration of an order before appealing to the Board of Industrial Insurance Appeals. The request must be submitted within the time limit specified for appealing the order to the board, but there are no other time limits governing the request for reconsideration.

If the Department of Labor and Industries acts within certain time limits, the department may, on its own motion, hold an industrial insurance order in abeyance for up to 90 days to reconsider the order. For good cause, the department may extend the time period for an additional 90 days.

If the worker has filed an application to reopen a claim, the department must issue an order denying the application within 90 days of receiving the application. If the order is not issued within the time period, the application is deemed granted. This 90-day period may be extended 60 days for good cause.

In 1993 the Washington Supreme Court determined that these two time periods operate independently. In the case before the court, the department had issued an order denying an application to reopen a claim and had then placed the order in abeyance. The court held that once the department has issued an order denying a reopening application within the applicable time period, the time limits for making the initial decision on the application are satisfied. The department may then

hold the order in abeyance for reconsideration for up to 180 days.

**SUMMARY:**

If an employer requests reconsideration of a Department of Labor and Industries' order in favor of an injured worker, the employer has 30 days to submit relevant information to the department. The department may only consider information submitted within the time period, unless the department extends the time period for an additional 30 days for good cause.

A worker must continue to receive temporary disability and medical aid benefits while an order granting the benefits is being reconsidered, subject to recoupment of the benefits.

The Department of Labor and Industries' authority to reconsider an industrial insurance order for up to 180 days after the order is placed in abeyance is modified. If the order concerns an application to reopen a claim, the time period for reconsideration may not exceed 90 days from the date that the application was received. The department may extend this period for an additional 60 days for good cause. Reopening applications that are deemed granted by statute may not be held in abeyance.

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

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested

**TESTIMONY FOR:**

Time limits for reconsideration need to be reduced and made more reasonable. Requiring time loss to be paid during the pendency of an employer's request for reconsideration removes the incentive to make frivolous requests. With lengthy time periods and cessation of benefits, workers experience severe and unwarranted financial hardship.

**TESTIMONY AGAINST:**

If the worker continues to receive benefits during an employer's request for reconsideration, the time limits are unnecessary. It often takes longer than 30 days to gather relevant information. In those cases, the employer may have to appeal a case that could have been settled at the department level.

**TESTIFIED:** Clif Finch, AWB (con) Robby Stern, WA State Labor Council (pro); Mike Watson, L&I (con); Melanie Stewart, WA Self Insurers Assn. (con); David Ducharme, Kaiser (con)