

SENATE BILL REPORT

EHB 1353

AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, APRIL 2, 1993

**Brief Description:** Regulating asbestos disease benefits claims.

**SPONSORS:** Representatives G. Cole, Franklin, Heavey and King; by request of Department of Labor & Industries

**HOUSE COMMITTEE ON COMMERCE & LABOR**

**HOUSE COMMITTEE ON APPROPRIATIONS**

**SENATE COMMITTEE ON LABOR & COMMERCE**

**Majority Report:** Do pass.

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

**Staff:** Erika Lim (786-7488)

**Hearing Dates:** April 1, 1993; April 2, 1993

**BACKGROUND:**

Asbestos is a mineral which was used for insulation aboard ships as well as in land-based construction. Exposure to asbestos fibers can cause health problems, including pulmonary disease and cancer. These problems often do not develop for 20 to 30 years.

Injured workers are paid industrial insurance benefits by whoever employed them at the time of the injury. Some injured asbestos workers have not been able to obtain benefits because establishing their work histories 20 or 30 years ago is so difficult. Also, those exposed while working on ships may be covered by the federal Longshore and Harborworkers' Act.

In 1988, the Department of Labor and Industries established an "asbestos fund" to pay benefits to injured workers whose claims have disputed liability. The only workers eligible to be paid from this asbestos fund are those whose last exposure may be covered by the Longshore and Harborworkers' Act and who also had a previous exposure at a site covered by state industrial insurance. Benefits from this fund are paid until liability is determined and the liable insurer begins payments. Payments are conditioned on a worker's or a beneficiary's cooperation with the department's efforts to determine liability.

Benefits under this program are paid from the medical aid fund. Self-insurers and the state fund split the costs of the

program. Each pays according to the number of worker hours. The self-insurer's portion is half paid by the self-insured employer and half paid by the self-insured employer's employees.

If a self-insurer or the state fund is ultimately found liable, the self-insurer or the state fund must reimburse the medical aid fund. If a federal program insurer is ultimately found liable, the department is authorized to go after the federal insurer on behalf of both the worker and itself.

This program expires July 1, 1993.

**SUMMARY:**

The program expiration date is deleted.

In addition to being conditioned on a worker's or a beneficiary's cooperation with the department's efforts to determine liability, benefit payments are also conditioned on a worker's or a beneficiary's cooperation with the department's efforts to pursue benefits from a federal insurer.

The Attorney General may appoint special Assistant Attorneys General to pursue federal insurers found by the department to be liable. The Attorney General, in conjunction with the department and the Washington State Bar Association, will determine criteria and procedure by which private lawyers may be considered for these appointments. Attorneys' fees will be paid according to existing state and federal law. Any fees which are the department's responsibility will be paid from the medical aid fund.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**Effective Date:** The bill contains an emergency clause and takes effect July 1, 1993.

**TESTIMONY FOR:**

Asbestos workers' injuries are different, and more complicated, from most other industrial insurance claims. Without this program, workers whose claims have disputed jurisdiction would be in limbo. The program's claims process is efficient, cutting through what used to be months of waiting for a claim to be investigated.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Mike Watson, Dept of Labor and Industries (pro); Jeff Johnson, Washington State Labor Council (pro); Clif Finch, Association of Washington Businesses (pro); Bill Hochberg, WSTLA (pro)

