

HOUSE BILL REPORT

HB 1910

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to determination of benefits for permanent partial disability by industrial insurance self-insurers.

Brief Description: Providing for industrial insurance self-insurers to determine benefits for permanent disability.

Sponsors: Representatives Goldsmith, Cairnes, Hargrove and Lisk.

Brief History:

Committee Activity:

Commerce & Labor: 2/23/95, 2/28/95 [DPS].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Cairnes; Fuhrman; Goldsmith and Horn.

Minority Report: Do not pass. Signed by 4 members: Representatives Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cody and Cole.

Staff: Chris Cordes (786-7117).

Background: The Department of Labor and Industries is responsible for making all determinations of permanent disabilities in industrial insurance claims, whether the injured worker is covered by the state fund or a self-insured employer.

Self-insurers are authorized to close only those claims that do not involve permanent disabilities and meet other criteria established by statute. For other claims, the self-insurer must request the department to close the claim.

Summary of Substitute Bill: Beginning with industrial insurance claims accepted by self-insured employers after June 30, 1995, self-insurers are authorized to make determinations of permanent partial disability. The worker may request a determination or a determination may be initiated by the self-insurer. The self-insurer

may either enter a written order communicated to the worker and the Department of Labor and Industries, or request the department to issue an order.

The claims for which self-insurers may make permanent disability determinations must involve only medical treatment and time loss payments, or only time loss payments, must be undisputed claims, and must involve a worker who has returned to work with the self-insured employer of record at his or her previous job or a job with comparable wages and benefits. Upon closing one of these claims, the self-insurer must report the closure to the department and notify the worker in writing that the claim is being closed with medical benefits and/or time loss compensation and an award for permanent partial disability as applicable. The notice must include information about the worker's right to protest the closure.

Substitute Bill Compared to Original Bill: The substitute bill deletes: (1) provisions that would have allowed the self-insurer to allow or deny an industrial insurance claim or reopening application; and (2) a requirement for self-insurers to forward medical reports when requesting closure of a claim. Technical changes are made to clarify the provisions authorizing self-insurers to make permanent disability determinations. The authority is limited to determining permanent partial disabilities in specified cases that are accepted by a self-insurer after June 30, 1995. The cases must be ones involving, among other factors, only medical treatment and the payment of time loss, or only involving the payment of time loss.

Appropriation: None.

Fiscal Note: Requested on February 14, 1995.

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

Testimony For: This bill will help employers, employees, and the Department of Labor and Industries by allowing claims to be closed in a more timely manner and reduce duplication of effort. Under the current system, providers of services make money when injured workers stay away from work. These delays in return to work are resulting in poor outcomes for workers. The bill retains the worker's right to appeal any decision, and closing the claim is only allowed when the worker is actually back at work.

Testimony Against: This bill is not about the timeliness of payment to injured workers. The timelines issue can be solved with FTEs at the Department of Labor and Industries to expedite claims. Workers continue to be opposed to increasing the authority of self-insurers. There are good self-insurers and bad self-insurers, and this bill would allow both to close claims. The Department of Labor and Industries is the proper agency to close claims and review claims closures. The department is a

trustee for the worker, but the employer has an adversarial role. The right of appeal is not adequate protection for a worker who is not informed of his or her right to appeal.

Testified: (In favor) David Ducharme, Washington Self-Insurers Association; Clif Finch, Association of Washington Business; and Deena Pease, Weyerhaeuser. (Opposed) Robby Stern, Washington State Labor Council; Bob Dilger, Washington State Building and Construction Trades Council; Wayne Lieb, Washington State Trial Lawyers Association; and Dick Harmon, International Union of Elevator Constructors.