

# SENATE BILL REPORT

## SHB 2822

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As Reported By Senate Committee On:  
Commerce & Labor, February 24, 1998

**Title:** An act relating to exempting department of labor and industries' medical coverage decisions from rule-making requirements.

**Brief Description:** Exempting agency medical coverage decisions by labor and industries from rule-making provisions.

**Sponsors:** House Committee on Commerce & Labor (originally sponsored by Representative McMorris; by request of Department of Labor & Industries).

**Brief History:**

**Committee Activity:** Commerce & Labor: 2/23/98, 2/24/98 [DP].

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### SENATE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass.

Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson, Franklin, Fraser, Heavey and Newhouse.

**Staff:** Jack Brummel (786-7428)

**Background:** An injured worker entitled to compensation under the industrial insurance law must receive "proper and necessary" medical services during his or her period of disability, subject to certain limitations. The Department of Labor and Industries is responsible for supervising the "prompt and efficient" delivery of care and treatment provided to injured workers. The department is directed by statute to adopt rules and practices governing these services.

The state Administrative Procedure Act (APA) details procedures that state agencies must follow when adopting rules. Rules not adopted in accordance with the prescribed procedures are invalid.

**Summary of Bill:** Medical coverage decisions made by the Department of Labor and Industries under the industrial insurance law are not "rules" for the purposes of the state Administrative Procedure Act and are not subject to the APA's rule-making requirements. However, the criteria for establishing medical coverage decisions must be adopted by rule after consultation with the Workers' Compensation Advisory Committee.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Because of rapid evolution in coverage of Medicare, the department needs to implement some medical coverage decisions quickly. New therapies and devices need to be approved or disapproved in a timely fashion, not possible through the rule-making process. The criteria for the decisions will be subject to rule.

The right of review will not be eliminated by this bill. The consultation with the Workers' Compensation Advisory Committee will be productive.

**Testimony Against:** None.

**Testified:** PRO: Jami Lifka, Gary Franklin, L&I; Clif Finch, AWB; Robby Stern, WA State Labor Council.