

# HOUSE BILL ANALYSIS

## HB 2047

**Brief Description:** Implementing recommendations for industrial insurance.

---

**Sponsors:** Representatives Clements and Conway

**Hearing:** February 24, 1999

### Brief Summary of Bill

- Requires the Department of Labor and Industries to develop a plan for implementing the recommendations of the JLARC Workers' Compensation Performance Audit by September 15, 1999, and to report this plan and a plan for improving vocational rehabilitation services to the Legislature by December 1, 1999.
- Authorizes injured workers to file applications for industrial insurance benefits with their employers and makes other modifications to the system of reporting workplace injuries beginning September 15, 1999.

### BACKGROUND:

Substitute Senate Bill 6030, enacted in 1997, required the Joint Legislative Audit and Review Committee to contract for a performance audit of the Washington workers' compensation system. The report was delivered in December 1998, and made 32 recommendations for modifying the system, including recommendations for:

- management of industrial insurance claims;
- regulation and oversight of self-insured employers and outside parties involved in claims procedures;
- dispute resolution;
- vocational rehabilitation services;
- workplace safety; and
- rate setting practices and the retrospective rating plan.

Recommendation two of the report addressed reporting of workplace injuries by the

employer:

"The department should adopt an alternative system for the reporting of injuries under which the worker would report to the employer and the employer would report to the department. An educational effort should be launched to promote this method of reporting."

The industrial insurance law requires employees to report workplace accidents "forthwith" to the employer or supervisor, and requires the employer to report "at once" the accident and resulting injury to the department if the worker has received treatment from a physician, been hospitalized, been disabled from work, or died. The statute specifies the information that the employer must include in the report and imposes a maximum \$250 penalty on employers who fail or refuse to file the report.

An injured worker claiming industrial insurance benefits must file an application with the department or with his or her self-insured employer. Under court decisions, if a state fund worker fails to file the application with the department within the statutory time limits, benefits may not be granted, even if the employer had notice or knowledge of the injury.

The Workers' Compensation Advisory Committee is a statutory committee composed of labor and business representatives appointed by the director of the Department of Labor and Industries. The committee is charged with conducting studies of the industrial insurance system. In 1996, the committee formed a Subcommittee on Vocational Services to consider changes to the vocational rehabilitation system that would improve service and contain costs. The subcommittee is reviewing possible models for recommendations to the department and the Legislature.

#### **SUMMARY OF BILL:**

By September 15, 1999, the Department of Labor and Industries must develop a plan for implementing the recommendations reported in the Joint Legislative Audit and Review Committee's Workers' Compensation System Performance Audit, No. 98-9. The department must report the plan to the appropriate committees of the Legislature by December 1, 1999, including:

- recommendations that have been or will be implemented;
- recommendations that are not planned for implementation, with reasons for the decision; and
- recommendations for legislation that may be required.

By December 1, 1999, the department must report to the appropriate committees of the Legislature on a plan for improving the industrial insurance vocational rehabilitation system,

including recommendations for legislation, if any.

Beginning September 15, 1999, procedures for reporting workplace injuries and occupational diseases and applying for industrial insurance benefits are revised. Within 30 days of sustaining a workplace injury or occupational disease that requires treatment by a health services provider, an employee must report the injury or disease to the employer. The notice must be in writing and must contain specific information, including a statement of the time, place, nature, and cause of the accident. The notice must be given by delivering or sending by mail to the employer, partner, supervisor, or other agent of the employer.

The report is modified that employers must file with the department when they have notice or knowledge of the occurrence of certain injuries or occupational diseases. The report must be filed in seven days. The additional elements that must be reported include the wages paid to the worker and the work site location of the injury. The maximum penalty for failure or refusal to file this report is increased from \$250 to \$500.

An injured worker filing an application for industrial insurance benefits may file the application with either the department or the employer. An employer receiving an application, except a self-insured employer, must forward the application to the department within seven days. An employer that fails to forward the application is subject to a maximum penalty of \$5,000 for each offense.

An employer who has notice or knowledge of workplace injuries or occupational diseases, or who receives an application for benefits, must give the worker written notice of his or her rights under the industrial insurance law and how to apply for benefits.

**RULES AUTHORITY:** The Department of Labor and Industries is required to adopt rules to implement the reporting of industrial insurance injuries and occupational diseases.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of a session in which bill is passed, except for sections three through five, changing requirements for making industrial insurance benefit applications, which take effect September 15, 1999.