
SUBSTITUTE SENATE BILL 5686

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Children & Family Services & Corrections
(originally sponsored by Senators Keiser, Prentice and McAuliffe)

READ FIRST TIME 02/24/03.

1 AN ACT Relating to workers' compensation benefits of inmates;
2 amending RCW 72.09.111 and 51.32.040; and adding a new section to
3 chapter 51.32 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 72.09.111 and 2002 c 126 s 2 are each amended to read
6 as follows:

7 (1) The secretary shall deduct taxes and legal financial
8 obligations from the gross wages ~~((or))~~, gratuities, or workers'
9 compensation benefits payable directly to the inmate under chapter
10 51.32 RCW, of each inmate working in correctional industries work
11 programs, ~~((taxes and legal financial obligations))~~ or otherwise
12 receiving such wages, gratuities, or benefits. The secretary shall
13 develop a formula for the distribution of offender wages ~~((and))~~,
14 gratuities, and benefits. The formula shall not reduce the inmate
15 account below the indigency level, as defined in RCW 72.09.015.

16 (a) The formula shall include the following minimum deductions from
17 class I gross wages and from all others earning at least minimum wage:

18 (i) Five percent to the public safety and education account for the
19 purpose of crime victims' compensation;

1 (ii) Ten percent to a department personal inmate savings account;
2 (iii) Twenty percent to the department to contribute to the cost of
3 incarceration; and
4 (iv) Twenty percent for payment of legal financial obligations for
5 all inmates who have legal financial obligations owing in any
6 Washington state superior court.

7 (b) The formula shall include the following minimum deductions from
8 class II gross gratuities:

9 (i) Five percent to the public safety and education account for the
10 purpose of crime victims' compensation;

11 (ii) Ten percent to a department personal inmate savings account;

12 (iii) Fifteen percent to the department to contribute to the cost
13 of incarceration; and

14 (iv) Twenty percent for payment of legal financial obligations for
15 all inmates who have legal financial obligations owing in any
16 Washington state superior court.

17 (c) The formula shall include the following minimum deductions from
18 any workers' compensation benefits paid pursuant to RCW 51.32.080:

19 (i) Five percent to the public safety and education account for the
20 purpose of crime victims' compensation;

21 (ii) Ten percent to a department personal inmate savings account;

22 (iii) Twenty percent to the department to contribute to the cost of
23 incarceration; and

24 (iv) An amount equal to any legal financial obligations owed by the
25 inmate established by an order of any Washington state superior court
26 up to the total amount of the award.

27 (d) The formula shall include the following minimum deduction from
28 class IV gross gratuities: Five percent to the department to
29 contribute to the cost of incarceration.

30 ~~((d))~~ (e) The formula shall include the following minimum
31 deductions from class III gratuities: Five percent for the purpose of
32 crime victims' compensation.

33 (2) Any person sentenced to life imprisonment without possibility
34 of release or parole under chapter 10.95 RCW or sentenced to death
35 shall be exempt from the requirement under subsection (1)(a)(ii)
36 ~~((or))~~, (b)(ii) ~~((of this subsection))~~, or (c)(ii).

37 (3) The department personal inmate savings account, together with
38 any accrued interest, shall only be available to an inmate at the time

1 of his or her release from confinement, unless the secretary determines
2 that an emergency exists for the inmate, at which time the funds can be
3 made available to the inmate in an amount determined by the secretary.
4 The management of classes I, II, and IV correctional industries may
5 establish an incentive payment for offender workers based on
6 productivity criteria. This incentive shall be paid separately from
7 the hourly wage/gratuity rate and shall not be subject to the specified
8 deduction for cost of incarceration.

9 (4) In the event that the offender worker's wages ~~((\otimes))~~, gratuity,
10 or workers' compensation benefit is subject to garnishment for support
11 enforcement, the crime victims' compensation, savings, and cost of
12 incarceration deductions shall be calculated on the net wages after
13 taxes, legal financial obligations, and garnishment.

14 ~~((+2))~~ (5) The department shall explore other methods of
15 recovering a portion of the cost of the inmate's incarceration and for
16 encouraging participation in work programs, including development of
17 incentive programs that offer inmates benefits and amenities paid for
18 only from wages earned while working in a correctional industries work
19 program.

20 ~~((+3))~~ (6) The department shall develop the necessary
21 administrative structure to recover inmates' wages and keep records of
22 the amount inmates pay for the costs of incarceration and amenities.
23 All funds deducted from inmate wages under subsection (1) of this
24 section for the purpose of contributions to the cost of incarceration
25 shall be deposited in a dedicated fund with the department and shall be
26 used only for the purpose of enhancing and maintaining correctional
27 industries work programs.

28 ~~((+4))~~ (7) The expansion of inmate employment in class I and class
29 II correctional industries shall be implemented according to the
30 following schedule:

31 (a) Not later than June 30, 1995, the secretary shall achieve a net
32 increase of at least two hundred in the number of inmates employed in
33 class I or class II correctional industries work programs above the
34 number so employed on June 30, 1994;

35 (b) Not later than June 30, 1996, the secretary shall achieve a net
36 increase of at least four hundred in the number of inmates employed in
37 class I or class II correctional industries work programs above the
38 number so employed on June 30, 1994;

1 (c) Not later than June 30, 1997, the secretary shall achieve a net
2 increase of at least six hundred in the number of inmates employed in
3 class I or class II correctional industries work programs above the
4 number so employed on June 30, 1994;

5 (d) Not later than June 30, 1998, the secretary shall achieve a net
6 increase of at least nine hundred in the number of inmates employed in
7 class I or class II correctional industries work programs above the
8 number so employed on June 30, 1994;

9 (e) Not later than June 30, 1999, the secretary shall achieve a net
10 increase of at least one thousand two hundred in the number of inmates
11 employed in class I or class II correctional industries work programs
12 above the number so employed on June 30, 1994;

13 (f) Not later than June 30, 2000, the secretary shall achieve a net
14 increase of at least one thousand five hundred in the number of inmates
15 employed in class I or class II correctional industries work programs
16 above the number so employed on June 30, 1994.

17 ((+5)) (8) It shall be in the discretion of the secretary to
18 apportion the inmates between class I and class II depending on
19 available contracts and resources.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.32 RCW
21 to read as follows:

22 If the department of labor and industries has received notice that
23 an injured worker entitled to benefits payable under this chapter is in
24 the custody of the department of corrections pursuant to a conviction
25 and sentence, the department shall send all such benefits to the worker
26 in care of the department of corrections, except those benefits payable
27 to a beneficiary as provided in RCW 51.32.040 (3)(c) and (4). Failure
28 of the department to send such benefits to the department of
29 corrections shall not result in liability to any party for either
30 department.

31 **Sec. 3.** RCW 51.32.040 and 1999 c 185 s 1 are each amended to read
32 as follows:

33 (1) Except as provided in RCW 43.20B.720 ((and)), 72.09.111,
34 74.20A.260, and section 2 of this act, no money paid or payable under
35 this title shall, before the issuance and delivery of the check or
36 warrant, be assigned, charged, or taken in execution, attached,

1 garnished, or pass or be paid to any other person by operation of law,
2 any form of voluntary assignment, or power of attorney. Any such
3 assignment or charge is void unless the transfer is to a financial
4 institution at the request of a worker or other beneficiary and made in
5 accordance with RCW 51.32.045.

6 (2)(a) If any worker suffers (i) a permanent partial injury and
7 dies from some other cause than the accident which produced the injury
8 before he or she receives payment of the award for the permanent
9 partial injury or (ii) any other injury before he or she receives
10 payment of any monthly installment covering any period of time before
11 his or her death, the amount of the permanent partial disability award
12 or the monthly payment, or both, shall be paid to the surviving spouse
13 or the child or children if there is no surviving spouse. If there is
14 no surviving spouse and no child or children, the award or the amount
15 of the monthly payment shall be paid by the department or self-insurer
16 and distributed consistent with the terms of the decedent's will or, if
17 the decedent dies intestate, consistent with the terms of RCW
18 11.04.015.

19 (b) If any worker suffers an injury and dies from it before he or
20 she receives payment of any monthly installment covering time loss for
21 any period of time before his or her death, the amount of the monthly
22 payment shall be paid to the surviving spouse or the child or children
23 if there is no surviving spouse. If there is no surviving spouse and
24 no child or children, the amount of the monthly payment shall be paid
25 by the department or self-insurer and distributed consistent with the
26 terms of the decedent's will or, if the decedent dies intestate,
27 consistent with the terms of RCW 11.04.015.

28 (c) Any application for compensation under this subsection (2)
29 shall be filed with the department or self-insuring employer within one
30 year of the date of death. The department or self-insurer may satisfy
31 its responsibilities under this subsection (2) by sending any payment
32 due in the name of the decedent and to the last known address of the
33 decedent.

34 (3)(a) Any worker or beneficiary receiving benefits under this
35 title who is subsequently confined in, or who subsequently becomes
36 eligible for benefits under this title while confined in, any
37 institution under conviction and sentence shall have all payments of
38 the compensation canceled during the period of confinement. After

1 discharge from the institution, payment of benefits due afterward shall
2 be paid if the worker or beneficiary would, except for the provisions
3 of this subsection (3), otherwise be entitled to them.

4 (b) If any prisoner is injured in the course of his or her
5 employment while participating in a work or training release program
6 authorized by chapter 72.65 RCW and is subject to the provisions of
7 this title, he or she is entitled to payments under this title, subject
8 to the requirements of chapter 72.65 RCW, unless his or her
9 participation in the program has been canceled, or unless he or she is
10 returned to a state correctional institution, as defined in RCW
11 72.65.010(3), as a result of revocation of parole or new sentence.

12 (c) If the confined worker has any beneficiaries during the
13 confinement period during which benefits are canceled under (a) or (b)
14 of this subsection, they shall be paid directly the monthly benefits
15 which would have been paid to the worker for himself or herself and the
16 worker's beneficiaries had the worker not been confined.

17 (4) Any lump sum benefits to which a worker would otherwise be
18 entitled but for the provisions of this section shall be paid on a
19 monthly basis to his or her beneficiaries.

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