

HOUSE BILL REPORT

HB 1918

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to implementing recommendation no. 2 of the joint legislative audit and review committee's report no. 98-9 with regard to reporting of industrial insurance injuries.

Brief Description: Implementing a recommendation of the joint legislative audit and review committee with regard to industrial insurance.

Sponsors: Representatives Conway, Wood and Chase.

Brief History:

Committee Activity:

Commerce & Labor: 2/15/05, 2/28/05 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Labor and Industries (Department) to develop an educational initiative to encourage prompt reporting of industrial insurance injuries by the worker to the employer and by the employer to the Department, and to develop statutory recommendations for an alternative system of reporting by December 1, 2006.
- Permits a health services provider to fax a worker's industrial insurance claim application to the Department.
- Requires the Department to notify the employer when it receives a claim application and to instruct a state fund employer to submit a report of accident.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse, Hudgins and McCoy.

Staff: Chris Cordes (786-7103).

Background:

Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered workers who are injured on the job or who

develop an occupational disease. Employers who are not self-insured must insure with the state fund operated by the Department of Labor and Industries (Department).

When an accident occurs to a worker, the worker has a duty under the Industrial Insurance Act to report the accident "forthwith" to the employer or supervisor in charge of the work. The employer, in turn, has a duty to report the accident and resulting injury "at once" to the Department if the worker has received medical treatment, has been hospitalized or disabled from work, or has died as the apparent result of the injury.

Workers must also file a claim application with the Department or self-insured employer, together with a certificate of the attending health services provider. The attending provider must inform the worker of his or her rights under the Industrial Insurance Act and assist the worker in filing the claim application.

In its 1998 Workers' Compensation System Performance Audit, the Joint Legislative Audit and Review Committee (JLARC) made a number of recommendations concerning the workers' compensation system, including Recommendation 2:

"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."

In June 2002, the Department implemented an Occupational Health Services Project (Project) developed in partnership with the Workers' Compensation Advisory Committee and the University of Washington. Under the program, two Centers of Occupational Health and Education have been established, one in Renton, Washington, and one in Spokane, Washington. These centers have several objectives, including providing interdisciplinary occupational health training and mentoring, working directly with community providers, and facilitating communication among providers, workers, employers, and the industrial insurance system. The University of Washington provides process improvement services to the Project and will undertake a formal evaluation of the Project.

Summary of Substitute Bill:

The Legislature finds that the JLARC Workers' Compensation System Performance Audit reported that:

- a significant cause for delayed benefit payments and lack of employer involvement in claims was the manner in which claims were reported;
- adopting a system in which the employee first reports to the employer and the employer reports to the Department would speed the first payment of benefits and involve the employer in the claim from the beginning; and
- the new reporting system should be an alternative to the current system in which the worker reports the physician.

The Department of Labor and Industries (Department) is required to develop an initiative to encourage workers to report industrial insurance injuries to the employer and the employer, in turn, to report the injuries to the Department, including taking steps to educate workers and employers about the benefits of prompt reporting.

By December 1, 2006, the Department must:

- develop and make statutory recommendations for an alternative system of reporting injuries under which the worker would report to the employer and the employer would report to the Department. Upon passage of the legislation, the Department must immediately begin an educational effort to promote this method of reporting; and
- report to the Legislature on a study of (1) the claims that are not reported promptly, (2) the effect of the educational initiative on whether the number of claims reported to employers increased, whether there was a reduction in delays in benefit payments, and whether there was an improvement in employer involvement in assisting with claims management and an increase in appropriate return-to-work for injured workers, and (3) the efforts of the Centers of Occupational Health and Education in early reporting and early notification of employers.

If an attending health services provider files a claim application on behalf of an injured worker, the provider may fax the application to the Department. When the Department has received an application, the Department must promptly notify the employer and, if the employer is a state fund employer, must instruct the employer to submit a report of accident and provide the employer with a telephone number for assistance with the report. The Department must also send a copy of the application to the employer if the employer has not received a copy.

Substitute Bill Compared to Original Bill:

The substitute bill adds the following:

- (1) The Department's study must include the results of the efforts of the Centers of Occupational Health and Education in early reporting and notification of employers.
- (2) The Department must, by December 1, 2006, develop and make statutory recommendations for an alternative system of reporting injuries (by the worker to the employer and by the employer to the Department). On passage of the legislation, the Department must immediately begin an educational effort to promote this method of reporting.
- (3) The Department, after receiving a claim application, must immediately send a copy to the employer (if the employer has not received a copy), and promptly notify a state fund employer to submit a report of accident and provide a telephone number for obtaining reporting assistance.
- (4) The attending health services provider may fax the claim application to the Department when the provider files an application for industrial insurance benefits on behalf of a worker.

The substitute bill also deletes the July 1, 2007, expiration date.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except section 3, reinstating prior law related to health services providers after a scheduled expiration, which takes effect June 30, 2007.

Testimony For: (In support) The JLARC audit recommendations were reviewed by a work group of labor and business representatives, but the group was unable to agree to a process for reporting injuries. The labor representatives were open to following the audit recommendation. It makes no sense to pay for an audit and then ignore its recommendations. According to the Department, about 92 percent of injuries are reported to the employer. The audit said to retain the "doctor reporting" system until other processes could be tested. The audit recommendation does not need a statutory change, only an effort by the Department to educate the parties about the importance of prompt reporting. The bill requires a report on why the other 8 percent of accidents are not reported. The committee also needs to look at the success of the Centers of Occupational Health and Education in fostering communications between the worker, employer, and doctor during triage.

(Information only) The Department submitted request legislation in 2000, but it was not adopted. The Department has no authority to penalize a worker who fails to report an injury.

Testimony Against: The Department admits that the report of accident/claim application process is a mess. The Department has a very difficult time matching up the three pieces of the report when they come in to the Department. Employers are not very involved in their injured workers' claims. The JLARC audit found significant delays because of the failure to report. Also, with earlier notice, the employer can address hazards in the workplace more quickly and develop better return-to-work options and better communications generally. The employer should not be surprised by a claim, and appeals would possibly be reduced if the employer was involved sooner. The Department does not wait for the employer's report before adjudicating the claim; it assumes that the employer received the report even if the report does not come in, but the doctor has no obligation to send it to the employer. The business community supports the Centers of Occupational Health and Education and is trying to get best practices implemented for the worker, employer, and doctor.

Persons Testifying: (In support) Robby Stern, Washington State Labor Council.

(Opposed) Dan Fazio, Washington Farm Bureau; and Amber Carter, Association of Washington Business.

(Information only) Vickie Kennedy, Department of Labor and Industries.

Persons Signed In To Testify But Not Testifying: None.