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**Commerce & Labor Committee**

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**HB 1732**

**Brief Description:** Allowing additional industrial insurance benefits when social security benefits are reduced.

**Sponsors:** Representatives Conway, McCoy, Wood, Chase, Campbell and Santos.

**Brief Summary of Bill**

- Requires the Department of Labor and Industries (Department), after a request and where appropriate, to recalculate an injured worker's time-loss benefits and pay additional benefits to the worker if a reduction in federal social security disability entitlement is made retroactively for a time period during which the Department had also reduced benefits.

**Hearing Date:** 2/14/05

**Staff:** Chris Cordes (786-7103).

**Background:**

In 1956, when the Congress enacted the federal social security disability program, it included provisions to coordinate benefits received under more than one disability program. Social security disability benefits for persons under age 62 were reduced by the full amount of state or federal workers' compensation benefits also being paid to the individual. This offset provision was repealed in 1958, but reenacted again in 1965.

The 1965 social security disability benefit provisions raised the age limit to age 65 and included a "reverse offset" that permits the benefit reduction to be taken by a state's workers' compensation program instead of by the federal disability program. However, in 1981, federal law was amended to allow a state to take the reverse offset only if the state had provided for a reverse offset as of February 18, 1981.

Washington permitted this reverse offset beginning in 1975. When Washington's law was enacted, it applied to persons under age 62 who were receiving social security disability payments. In 1983 this age limit was raised to age 65 to correspond to the age limit change in federal law for social security disability payments. However, this age limit of 65 years was deleted in 2004 because the age of eligibility for social security retirement under federal law is no longer a predetermined age but depends on the year in which the individual attains a specified age. Instead, the Department of Labor and Industries must reduce industrial insurance time-loss

or pension benefits to account for social security disability benefits received by a worker who becomes 65 years of age on or after the date that the law went into effect.

According to the Social Security Administration (SSA), the SSA is not permitted by federal law to recognize any extensions of a reverse offset provision that a state enacted after 1981. For example, the SSA does not recognize Washington's change in the law allowing a reverse offset after age 62 and will reimpose the SSA offset beginning at age 62 for social security disability beneficiaries.

To calculate the amount of the offset, the combined federal and state benefits may not exceed 80 percent of the worker's average current earnings when the disability was suffered.

**Summary of Bill:**

If federal social security benefits are reduced retroactively for periods of time-loss for which the Department of Labor and Industries (Department) also offset benefits to account for social security benefits, the Department, where appropriate and after a worker's request, must make changes in the offset calculations. Additional benefits may then be made to the worker after documenting an overpayment assessment by the Social Security Administration.

These additional benefits are paid without interest and without regard to whether the worker's claim is closed. This action does not affect the status of the claim or the date of claim closure.

These provisions apply to all requests for adjustment that are received, or for which a final and binding determination in response to a request has not been made, by the bill's effective date.

**Rules Authority:** The bill does not contain provisions addressing the rule-making powers of an agency.

**Appropriation:** None.

**Fiscal Note:** Requested on February 9, 2005.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.