

SENATE BILL REPORT

SHB 1732

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, March 24, 2005

Title: An act relating to allowing additional industrial insurance benefits when social security benefits are reduced.

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

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Conway, McCoy, Wood, Chase, Campbell and Santos).

Brief History: Passed House: 3/10/05, 92-0.

Committee Activity: Labor, Commerce, Research & Development: 3/24/05 [DP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: Do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Parlette, Ranking Minority Member; Brown, Hewitt, Honeyford, Keiser and Prentice.

Staff: Jennifer Strus (786-7316)

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 This offset provision was repealed in 1958, but reenacted again in 1965.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 rather than 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.

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.

Summary of Bill: Adjustments to workers' compensation benefits must be made if the SSA makes a retroactive reduction in a worker's federal social security benefits for periods when time-loss or pension benefits were also paid to the worker and for which L&I or self-insurer also offset benefits to account for social security benefits. To request the adjustment, the worker must submit a written request, along with satisfactory documentation of an SSA overpayment assessment. As appropriate, L&I or self-insurer must make changes in the offset calculations and pay additional benefits to the worker.

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 only to requests for adjustments that are submitted before July 1, 2007, and do not apply to requests on claims for which a final determination in response to a request has been made.

By December 1, 2006, L&I must report to the appropriate committees of the Legislature on these benefit adjustments, including information about similar benefit adjustments in other states and recommendations on whether additional statutory changes might be warranted in light of actions by the SSA.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: This legislation is needed to ensure that people who qualified for workers' compensation benefits and had them offset for federal social security disability reasons are able to pay large overpayments imposed by SSA. The business community can support the bill because of the limited time frame and the report back to the legislature. L&I can make the adjustments if the claims are open but cannot on closed claims; this legislation would allow them to make the adjustments in closed claims.

Testimony Against: None.

Who Testified: PRO: Michael Temple, Washington State Trial Lawyers' Association; Amber Carter, Association of Washington Business