

# HOUSE BILL REPORT

## HB 1501

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### As Passed House:

March 7, 2007

**Title:** An act relating to adjustments to industrial insurance total disability compensation reductions.

**Brief Description:** Concerning adjustments to industrial insurance total disability compensation reductions.

**Sponsors:** By Representatives Wood, Conway, Williams, Chase, Kenney and Moeller.

### Brief History:

#### Committee Activity:

Commerce & Labor: 2/1/07, 2/8/07 [DP].

#### Floor Activity:

Passed House: 3/7/07, 94-0.

### Brief Summary of Bill

- Eliminates the expiration date on the authority of the Department of Labor and Industries (Department) to recalculate an injured worker's time-loss benefits and pay additional benefits to the worker in situations when a reduction in federal social security disability entitlement is made for a time period during which the Department also reduced benefits.

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## HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse, Green, Moeller and Williams.

**Staff:** Sarah Beznoska (786-7109).

### Background:

In 1956, when Congress enacted the federal Social Security Disability Program, it included provisions to coordinate benefits received under more than one disability program. Social

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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 This offset provision was repealed in 1958, but reenacted again in 1965.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 a reverse offset at the state level 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 state offset after age 62 and will reimpose the SSA offset at the federal level beginning at age 62 for Social Security disability beneficiaries.

In 2005, the Legislature required the Department of Labor and Industries (Department) to adjust to workers' compensation benefits when:

- state industrial insurance benefits were paid at a reduced rate due to the worker's receipt of Social Security disability benefits; and
- the SSA made a retroactive reduction in federal benefits because of the worker's entitlement to state industrial insurance benefits.

The Department's authority to make these adjustments only applied to requests for adjustments submitted before July 1, 2007. In December 2006, the Department provided a report to the Legislature on the benefit adjustments. For the 19 claims in which the Department determined that additional payments were appropriate, the total amount paid was \$251,287.41.

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### **Summary of Bill:**

The Department is granted permanent authority to adjust to workers' compensation benefits when:

- state industrial insurance benefits were paid at a reduced rate due to the worker's receipt of Social Security disability benefits; and
- the SSA made a retroactive reduction in federal benefits because of the worker's entitlement to state industrial insurance benefits.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This relates to a problem with the Social Security Administration assessing overpayments against workers and not recognizing Washington's right to take an offset when a worker is between the ages of 62 and 65. Workers were getting assessed with large overpayment orders from the Social Security Administration and in some cases the workers were not able to recover from the Department the amount that was also withheld by the Department. This resulted in a double offset. In 2005, a sunset provision was included on the Department's authority to make retroactive adjustments so that the issue could be revisited and the fiscal impact could be analyzed.

During the past two years, the overall fiscal impact of the authority granted in 2005 was not huge. The impact to individuals, however, was huge. It saves individuals from financial ruin. There have only been 19 claims involved, but those individuals have benefitted greatly. This bill makes the Department's authority permanent and is important to get this passed.

(Opposed) None.

**Persons Testifying:** David Lauman, Washington State Trial Lawyers' Association.

**Persons Signed In To Testify But Not Testifying:** None.