

HOUSE BILL REPORT

HB 1792

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to a study of the incidence of total permanent disability pensions in the state's workers' compensation system.

Brief Description: Requiring a study of the incidence of total permanent disability pensions in the state's workers' compensation system.

Sponsors: Representatives Conway, Condotta, Morris, Chandler, Kenney, Priest, P. Sullivan, Chase, Wood and Moeller.

Brief History:

Committee Activity:

Commerce & Labor: 2/8/07, 2/27/07 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Labor and Industries (Department) to conduct a study of the incidence of total permanent disability pensions in the state's workers' compensation system.
- Requires the Department to report to the Workers' Compensation Advisory Committee on the results of the study.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill 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:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Workers injured in the course of employment may receive various benefits under the Industrial Insurance Act. If permanent total disability results from an injury, a worker may be entitled to compensatory benefits based on the monthly wages that the worker was receiving from all employment at the time of injury. A permanent total disability is defined under the Industrial Insurance Act as loss of both legs, or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful occupation.

Pension benefits for eligible workers with a permanent total disability are payable to the worker as long as he or she remains totally disabled. A cost-of-living adjustment is made to the monthly pension amount each July 1 based upon changes in the state average monthly wage. The state average monthly wage is derived from the Employment Security Department's calculation of the state average annual wage.

Summary of Substitute Bill:

The Department of Labor and Industries (Department) must conduct a study of the incidence of total permanent disability pensions in the state's workers' compensation system. The Department must contract with an independent researcher, approved by the Workers' Compensation Advisory Committee (WCAC), with demonstrated expertise in workers' compensation systems. The Department must consult with the WCAC to determine criteria to select the researcher and to actually select the researcher.

In conducting the study, the researcher must consider:

- causes of the recent increase in total permanent disability pensions, including changes in injured worker demographics, policy, and other identified areas;
- future anticipated total permanent disability trends;
- the impact of the standard for finding workers employable on the incidence of permanent total disability pensions;
- the impact of vocational rehabilitation, and any improvements to vocational rehabilitation, on the incidence of permanent total disability pensions; and
- a comparison of Washington's permanent disability claims experience and injured workers with other states and jurisdictions.

The Department must report to the WCAC on the results of the study before July 1, 2008.

Substitute Bill Compared to Original Bill:

The substitute bill requires the WCAC to approve the independent researcher and adds items to the study.

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. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The pension frequency in Washington's workers' compensation system is high. The frequency has doubled in the past three years compared to the previous 30 years. This is an unsustainable trend. If the frequency doubles again in the next five years, rates could not even be raised high enough to cover the cost.

Not only has pension frequency increased over the past few years, pension costs have doubled over the past 10 years. The cost-of-living assessment (COLA) on a pension is paid from the supplemental pension fund, which is not a fully-funded fund. The supplemental pension fund is a pay-as-you-go fund, and increased pension frequency and costs means increased liabilities. If no additional pensions were awarded after today, there is still \$10 billion in unfunded liability to cover the cost of COLAs on pensions that have already been awarded.

There are questions about what has caused this increase. These are reasonable questions to ask and this bill would study the issues.

This bill is based on discussions with the Department of Labor and Industries (Department) during the interim.

(Information) The Department has requested resources to do a study by hiring a workers' compensation expert as part of the Department's budget package. The Department has done internal analysis and has not isolated a specific reason for the increase and the Department believes a study would be beneficial.

(Opposed) A study of the incidence of pensions is premature because the process of re-working the vocational rehabilitation system is in the process. A better vocational rehabilitation system could decrease pensions. It makes no sense to study something that will change once the vocational system is repaired.

The study needs to look at the outcomes for a worker. As drafted, the study does not recognize the unique nature of the Washington system. The definition of employability and the standard for a pension is only slightly different. Studying the frequency of pension without looking at the vocational rehabilitation pilot project and the impact of the employability standard on pensions will produce incomplete data.

Persons Testifying: (In support) Dave Kaplan, Washington Self Insurers Association; and Kris Tefft, Association of Washington Business.

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

(Opposed) Owen Linch, Joint Council of Teamsters; and Michael Temple, Washington State Trial Lawyers Association.

Persons Signed In To Testify But Not Testifying: None.