

SENATE BILL REPORT

SB 6302

As of January 30, 2012

Title: An act relating to claim files and compensation under the industrial insurance laws.

Brief Description: Addressing claim files and compensation under the industrial insurance laws.

Sponsors: Senators Kohl-Welles, Conway, Keiser, Kline, Pridemore and Chase.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 1/30/12.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Mac Nicholson (786-7445)

Background: Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to benefits. Depending on the disability, workers are entitled to medical, temporary time-loss, and vocational rehabilitation benefits, as well as benefits for permanent disabilities. Under the state's industrial insurance laws, employers must insure through the state fund administered by the Department of Labor and Industries (L&I) or employers may self-insure if qualified. Self-insured employers commonly contract with a third-party administrator to administer workers' compensation claims.

Information in the claim files and records of injured workers is confidential and not open to public inspection. With some limitation, L&I, injured workers, employers, and medical providers have access to claim files and records.

Certain injured workers can resolve their industrial insurance claims through claims resolution structured settlements agreements. Claims closed pursuant to a structured settlement agreement can be reopened for medical treatment only, and further temporary total, temporary partial, permanent partial, or permanent total benefits are not payable. The Board of Industrial Insurance Appeals (BIIA) must approve all settlement agreements. Unrepresented workers must have a conference with an industrial appeals judge to determine whether the agreement is in the worker's best interest before submitting the agreement to BIIA.

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.

BIIA may award reasonable attorney fees and costs under specified circumstances, including cases where BIIA reverses or modifies a L&I order or decision and additional relief is granted to a worker. For claim resolution structured settlement agreements, attorney's fees are limited to 15 percent of the total amount to be paid to the worker.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Definitions are provided for third party administrator and claims management entity, and the existing definition of self-insurer is applied to self-insured employer.

All information submitted to BIIA, information developed during conferences or hearings on the settlement agreements, and information submitted to L&I, pursuant to the negotiation and approval of a claims resolution structured settlement agreement is confidential and not open to public inspection. L&I, injured workers, employers, and medical providers have access to this information subject to the same conditions that exist for information in claim files and records.

L&I must provide the appropriate committees of the Legislature with a plan to define claim file for state fund and self-insured claims. The plan must include a timeline for gathering stakeholder input, and for adopting rules or submitting recommended statutory language.

BIIA may award reasonable attorney fees and costs to a worker who re-opens a claim previously resolved with a structured settlement agreement if L&I initially issued an order denying the re-opening and BIIA reverses or modifies L&I's order and fully or partially awards the relief sought by the worker. In self-insured cases, the fees and costs are paid by the self-insured employer, and in state fund cases the fees and costs are paid by L&I.

Appropriation: None.

Fiscal Note: Requested on January 21, 2012.

Committee/Commission/Task Force Created: No.

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