
SENATE BILL 5280

State of Washington

62nd Legislature

2011 Regular Session

By Senators Holmquist Newbry, King, Hewitt, Hill, Stevens, Honeyford, Baumgartner, and Parlette

Read first time 01/19/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to voluntary settlement agreements under industrial
2 insurance laws; and adding new sections to chapter 51.04 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.04 RCW
5 to read as follows:

6 (1)(a) Notwithstanding RCW 51.04.060 or any other provision of this
7 title, the parties to a claim for benefits may enter into a voluntary
8 settlement agreement at any time as provided in this section with
9 respect to one or more claims for benefits under this title. All
10 voluntary settlement agreements must be approved by the board of
11 industrial insurance appeals. The voluntary settlement agreement may:

12 (i) Bind the parties with regard to any or all aspects of a claim
13 including, but not limited to, allowance or rejection of a claim,
14 monetary payment, vocational services, claim closure, and claim
15 reopening under RCW 51.32.160; and

16 (ii) Not subject any employer who is not a signatory to the
17 agreement to any responsibility or burden under any claim.

18 (b) For purposes of this section, "parties" means:

19 (i) For a self-insured claim, the worker and the employer; and

1 (ii) For a state fund claim, the worker, the employer, and the
2 department. If the employer participates in a retrospective rating
3 plan under chapter 51.18 RCW, the retrospective rating group, through
4 its administrator, is also a party.

5 (c) A voluntary settlement agreement entered into under this
6 section must be signed by the parties or their representatives and must
7 clearly state that the parties understand and agree to the terms of the
8 voluntary settlement agreement. Unless one of the parties revokes
9 consent to the agreement, as provided in subsection (3) of this
10 section, the voluntary settlement agreement becomes final and binding
11 thirty days after approval of the agreement by the board of industrial
12 insurance appeals.

13 (d) A voluntary settlement agreement that has become final and
14 binding as provided in this section is binding on the department and on
15 all parties to the agreement as to its terms and the injuries and
16 occupational diseases to which the voluntary settlement applies. A
17 voluntary settlement agreement that has become final and binding is not
18 subject to appeal.

19 (2)(a) If a worker is not represented by an attorney at the time of
20 signing a voluntary settlement agreement, the parties must forward a
21 copy of the signed settlement agreement to the board with a request for
22 a conference with a settlement officer. Unless one of the parties
23 requests a later date, the settlement officer must convene a conference
24 within fourteen days after receipt of the request for the limited
25 purpose of receiving the voluntary settlement agreement of the parties,
26 explaining to the worker the benefits generally available under this
27 title, and explaining that a voluntary settlement agreement may alter
28 the benefits payable on a claim. In no event may a settlement officer
29 render legal advice to any party.

30 (b) Before approving the settlement agreement, the settlement
31 officer shall ensure that the worker has an adequate understanding of
32 the settlement proposal and its consequences to the worker.

33 (c) The settlement officer may reject a settlement agreement only
34 if the officer finds the parties have not entered into the agreement
35 knowingly and willingly. Within seven days after the conference, the
36 settlement officer shall issue an order allowing or rejecting the
37 voluntary settlement agreement. There is no appeal from the settlement
38 officer's decision.

1 (d) If the settlement officer issues an order allowing the
2 voluntary settlement agreement, the order must be submitted to the
3 board.

4 (3) If a worker is represented by an attorney at the time of
5 signing a voluntary settlement agreement, the parties may submit the
6 agreement directly to the board without the conference described in
7 this section.

8 (4) Upon receiving the voluntary settlement agreement, the board
9 shall approve the agreement within thirty working days of receipt
10 unless it finds that the parties have not entered into the agreement
11 knowingly and willingly. If the board approves the agreement, it shall
12 provide notice to the department of the binding terms of the agreement
13 and provide for placement of the agreement in the applicable claim
14 files.

15 (5) A party may revoke consent to the voluntary settlement
16 agreement by providing written notice to the other parties and the
17 board within thirty days after the date the agreement is approved by
18 the board.

19 (6) To the extent the worker is found to be entitled to temporary
20 total disability or permanent total disability benefits while a
21 voluntary settlement agreement is being negotiated, or during the
22 revocation period of an agreement, the benefits must be paid until the
23 agreement becomes final.

24 (7) If the parties have provided in a voluntary settlement
25 agreement that a claim is not subject to reopening under RCW 51.32.160,
26 any application to reopen the claim must be denied.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.04 RCW
28 to read as follows:

29 The department must maintain copies of all voluntary settlement
30 agreements entered into between the parties and develop processes under
31 RCW 51.28.070 to furnish copies of such agreements to any party
32 contemplating any subsequent voluntary settlement agreement with the
33 worker on any claim. The department shall also furnish claims
34 histories that include all prior permanent disability awards received
35 by the worker on any claims by body part and category or percentage
36 rating, as applicable. Copies of such agreements and claims histories
37 shall be furnished within ten working days of a written request. An

1 employer may not consider a prior settlement agreement or claims
2 history when making a decision about hiring or the terms or conditions
3 of employment.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 51.04 RCW
5 to read as follows:

6 If a worker has received a prior award of, or entered into a
7 voluntary settlement for, total or partial permanent disability
8 benefits, it shall be conclusively presumed that the medical condition
9 causing the prior permanent disability exists and is disabling at the
10 time of any subsequent industrial injury or occupational disease.
11 Except in the case of total permanent disability, the accumulation of
12 all permanent disability awards issued with respect to any one part of
13 the body in favor of the worker may not exceed one hundred percent over
14 the worker's lifetime. When entering into a voluntary settlement
15 agreement under this chapter, the department or self-insured employer
16 may exclude amounts paid to settle claims for prior portions of a
17 worker's permanent total or partial disability.

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