

HOUSE BILL REPORT

HB 1884

As Reported by House Committee On:
Labor & Workforce Development

Title: An act relating to the rate of compensation for occupational diseases.

Brief Description: Addressing the rate of compensation for occupational diseases.

Sponsors: Representatives Sells, Hope, Dunshee, Rodne, Riccelli and Ryu.

Brief History:

Committee Activity:

Labor & Workforce Development: 2/19/13, 2/21/13 [DPS].

Brief Summary of Substitute Bill

- Changes how the rate of compensation is established, for the purposes of temporary total disability benefits, for occupational diseases that are known to be terminal.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Moeller and Ormsby.

Minority Report: Do not pass. Signed by 4 members: Representatives Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Holy and Short.

Staff: Trudes Tango (786-7384).

Background:

Under the state's Industrial Insurance Act (Act), workers injured in the course of employment are entitled to certain benefits. Workers who are disabled by an occupational disease in the course of employment are entitled to the same benefits as injured workers. An occupational disease is a disease or infection as arises naturally and proximately out of employment. Occupational disease claims must be filed within two years from the date the worker received

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written notice from a medical provider: (1) of the existence of the occupational disease; and (2) that a claim for benefits may be filed.

The rate of compensation for occupational diseases is established as of the date of disease manifestation. Disease manifestation is the date the disease required medical treatment or became totally or partially disabling, whichever occurred first, without regard to the date the disease was contracted or the date of filing the claim.

If the worker is employed at the time of manifestation, compensation is based on the monthly wage paid on that date regardless of whether the worker is employed in the industry that gave rise to the disease or in an unrelated industry. If the worker is not employed, for causes other than voluntary retirement, at the time of manifestation, compensation is based on the last monthly wage paid.

Compensation benefits for injured workers may be adjusted for cost-of-living increases. The formula for adjustments and when adjustments apply depend upon when the right to compensation was established.

Summary of Substitute Bill:

Changes are made in how the rate of compensation is established for occupational diseases that are known to be terminal.

At the first day the worker is entitled to temporary total disability benefits for an occupational disease that is known to be terminal, the rate of compensation must be established based on whichever of the following would result in a greater benefit to the worker:

- (1) the wages the worker was receiving at the date of manifestation, as determined by the Department of Labor and Industries (Department), taking into consideration the cost-of-living adjustment required by statute; or
- (2) the wages the worker was receiving at the time the occupational disease prevented the worker from continuing to work, regardless of when the disease first manifested, taking into consideration the cost-of-living adjustments subsequent to the date the disease first prevented the worker from continuing to work.

The Department must adopt rules defining when an occupational disease is known to be terminal. This provision applies to claims filed on or after the effective date of the Act.

Substitute Bill Compared to Original Bill:

The substitute bill adds the requirement that the Department adopt rules regarding the definition of terminal.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This is a modest effort to boost benefits of people who made sacrifices in the line of duty, such as fire fighters, and who contract terminal diseases because of their occupation. They should be entitled to the higher amount of benefits.

(With concerns) It is not clear what the bill is trying to cover. It is not clear what "terminal" means. There are some diseases that used to be considered terminal that are not necessarily considered terminal anymore, such as the human immunodeficiency virus (HIV). There will be litigation on what is considered terminal and increased transaction costs when more medical opinions will be needed to determine whether a person's disease is terminal. This bill creates difficulty as to when it is known that an occupational disease is terminal. More precise drafting is needed.

Persons Testifying: (In support) Geoff Simpson, Washington State Council of Fire Fighters.

(With concerns) Kris Tefft, Association of Washington Business; and Kathleen Collins, Washington Self-Insurers Association.

Persons Signed In To Testify But Not Testifying: None.