

HOUSE BILL REPORT

ESB 5510

As Reported by House Committee On:
Labor

Title: An act relating to simplifying and adding certainty to the calculation of workers' compensation benefits.

Brief Description: Simplifying and adding certainty to the calculation of workers' compensation benefits by creating a working group to develop recommendations.

Sponsors: Senators Braun, Baumgartner, Rivers and Angel.

Brief History:

Committee Activity:

Labor: 3/24/15, 3/26/15 [DPA].

**Brief Summary of Engrossed Bill
(As Amended by Committee)**

- Requires the Department of Labor and Industries to convene an industrial insurance benefit accuracy working group.

HOUSE COMMITTEE ON LABOR

Majority Report: Do pass as amended. Signed by 7 members: Representatives Sells, Chair; Gregerson, Vice Chair; Manweller, Ranking Minority Member; G. Hunt, Assistant Ranking Minority Member; McCabe, Moeller and Ormsby.

Staff: Joan Elgee (786-7106).

Background:

Under the state's industrial insurance laws, 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 partial and total disabilities.

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.

Monthly temporary time-loss and permanent total disability benefits provide partial wage replacement to the worker. The amount of benefits is based on the worker's pre-injury wages from all employment and depends on the worker's marital status and number of children. An unmarried childless worker with no children receives 60 percent of the worker's wages, while a married childless worker receives 65 percent of the worker's wages. The percentage is increased by 2 percent for each child, up to a maximum of 10 percent. The monthly benefit is capped at 120 percent of the state's average monthly wage, as determined by the Employment Security Department.

The statutory definition of wages includes health benefits; bonuses; the reasonable value of room, board, fuel, or similar considerations; and tips to the extent they are reported to the employer for income tax purposes. For seasonal and part-time workers, monthly wages are determined by using total wages earned, including overtime, from all employment in any 12-month period which represents the worker's employment pattern, and dividing the total by 12.

Workers receive an annual cost of living adjustment.

Summary of Amended Bill:

The Department of Labor and Industries (Department) must convene a benefit accuracy working group under the industrial insurance system no later than August 1, 2015. The working group must focus on improving the accuracy, simplicity, fairness, and consistency of calculating and providing wage replacement benefits. Overall reductions in benefits levels may not be considered. Working group members are appointed by the Director of the Department and consist of two members each representing labor and employers, and at least two members representing the Department.

The working group must report to the appropriate legislative committees by February 1, 2016, and September 1, 2016, and the provision expires on December 31, 2016.

Amended Bill Compared to Engrossed Bill:

The amended bill strikes language directing the working group to develop recommendations to improve the calculation of wages, and changes the reporting requirement to a "report back" without a requirement for a final report that includes any legislative proposals. The amended bill also adds the expiration date and makes housekeeping changes to use standard language.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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 an important issue that has been around for years. Wage calculation has an immediate impact to employers and employees and the current system is unfair to both. The current wage calculation is complicated and confusing and results in substantial litigation. The same person can come up with a different result when doing the calculation a second time. The laws have not been dealt with since the 1970s and don't account for new wage methods. Because of the complexity of this issue, a study is warranted. Improving wage calculation will give claim managers more time to work on the nuts and bolts of claims. Having a working group outside the Legislature is a new approach to de-escalate the politics around this issue. The amendment on the books is supported. The bill's model of bringing stakeholders together has worked in the past.

(With concerns) The bill is going in the right direction but does not recognize possible administrative solutions. The language implies there is a problem. The calculation of wages can be complex because of how a person's pay is structured and a perfect system is not possible.

(Opposed) None.

Persons Testifying: (In support) Senator Braun, prime sponsor; Bob Battles, Association of Washington Business; Kris Tefft, Washington Self-Insurers Association; and Carolyn Logue, Northwest Grocery Association.

(With concerns) Joe Kendo, Washington State Labor Council; and Michael Temple, Washington State Association for Justice.

Persons Signed In To Testify But Not Testifying: None.