

# SENATE BILL REPORT

## SB 5513

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As of February 18, 2015

**Title:** An act relating to creating the workers' recovery act by amending provisions governing structured settlements by lowering age barriers and clarifying legislative intent.

**Brief Description:** Creating the workers' recovery act by amending provisions governing structured settlements by lowering age barriers and clarifying legislative intent.

**Sponsors:** Senators Braun, Baumgartner, Dammeier, Rivers, Bailey, Sheldon, Schoesler, Warnick and Honeyford.

**Brief History:**

**Committee Activity:** Commerce & Labor: 2/11/15.

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### SENATE COMMITTEE ON COMMERCE & LABOR

**Staff:** Mac Nicholson (786-7445)

**Background:** Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to industrial insurance benefits. Depending on the disability, workers are entitled to medical, temporary time-loss, and vocational rehabilitation benefits, as well as benefits for permanent disabilities. Eligible workers have the option to settle parts of their worker compensation claims through structured settlements. Settlements are available for injured workers who are age 53 and older, which will adjust down to 50 and older by 2016. Medical benefits cannot be settled.

Unrepresented workers seeking to settle their claims must submit their agreement to, and request a conference with, an industrial appeals judge (IAJ) for approval. Following the conference, the IAJ can approve the settlement only if the settlement is in the best interest of the worker. After the IAJ has approved the agreement, the agreement is forwarded to the Board of Industrial Insurance Appeals (BIIA) for approval. Workers who are represented by an attorney can submit the settlement agreement directly to the BIIA for approval.

The BIIA must approve the agreement unless it finds that the parties have not entered into the agreement knowingly and willingly; the agreement does not meet the requirements of a settlement; the agreement is the result of a material misrepresentation of law or fact; the agreement is the result of harassment or coercion; or the agreement is unreasonable as a matter of law.

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*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.*

In April 2012, the BIIA issued a decision involving a settlement agreement submitted by a represented worker *In re: Zimmerman*. The BIIA rejected the agreement, finding it did not have enough information to determine whether the agreement was in the best interest of the worker. The BIIA concluded that a best-interest determination is a requirement of a settlement agreement for both represented and unrepresented workers. The BIIA decision was appealed, and was overturned by the Court of Appeals, who determined that the best-interest standard only applies to structured settlements with unrepresented injured workers.

**Summary of Bill:** The age restriction for structured settlements is eliminated.

A best-interest determination is not a requirement of a settlement agreement for represented workers.

The legislation states that it is a clarification of the Legislature's original intent, and applies retroactively.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: Eighteen year olds are adults and can make large life decisions, but you have to be 53 years old to enter into a settlement agreement. Even with an attorney, you still have to be 53. This restriction is unnecessary.

CON: With the barrier at age 50, retirement is on the horizon and planning for retirement is something that an individual that age can reasonably do. As workers get younger, there are decades to plan for before retirement and it becomes more complicated. Before the age is removed, the current program should be fully evaluated and understood.

**Persons Testifying:** PRO: Bob Battles, Assn. of WA Business; Tom Kwieciak, Building Industry Assn. of WA.

CON: Joe Kendo, WA State Labor Council; Michael Temple, WA State Assn. for Justice.