

SENATE BILL REPORT

SB 5516

As of February 3, 2015

Title: An act relating to compensation for injured workers.

Brief Description: Addressing compensation for injured workers.

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

Brief History:

Committee Activity: Commerce & Labor: 2/04/15.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Mac Nicholson (786-7445)

Background: The state Industrial Insurance Program provides medical and other benefits to workers who suffer a work-related injury or develop an occupational disease. The Industrial Insurance Program is administered by the Department of Labor and Industries (L&I) and is funded through a premium collected from employers and employees in the state. Workers are entitled to workers' compensation benefits depending on the type of injury or disease and whether the injury or disease precludes any further gainful employment.

Eligible workers have the option to settle parts of their workers' compensation claims through structured settlements. Settlements are available for injured workers older than 53, which will adjust down to 50 and older by 2016. Only allowed claims can be settled, and settlement agreements cannot be initiated until at least 180 days have passed since the order allowing the claim became final and binding. 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

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agreement is the result of harassment or coercion; or the agreement is unreasonable as a matter of law.

L&I must maintain copies of all settlement agreements, and provide copies to any party actively negotiating a subsequent settlement agreement.

Transitional or Light-Duty Work. An employer can offer an injured worker a transitional or light-duty job in order to return the injured worker to work. Prior to employing the injured worker in a transitional or light-duty job, the employer must receive approval from the worker's health care provider. An injured worker who returns to work cannot collect temporary total disability benefits (time-loss), though the worker may be entitled to loss of earning power benefits.

Summary of Bill: The existing structured settlement program is repealed, and a new settlement program is created.

Voluntary Settlement Agreements. Starting September 1, 2013, parties to an allowed claim for workers' compensation benefits may resolve a claim for all workers' compensation benefits other than medical. Settlement agreements must be submitted to, and approved by, the BIIA if the BIIA finds that the parties have entered into the agreement knowingly and willingly. If the injured worker is unrepresented, a settlement officer at the BIIA must review the settlement agreement, explain to the worker the benefits generally available, ensure the worker has an adequate understanding of the proposal and its consequences, and can approve the settlement only if it is in the best interest of the worker. The legislation provides factors for the settlement officer to consider when making the best-interest determination.

Settlement agreements cannot be initiated until 180 days after the order allowing the claim is final and binding, and benefits must be paid during negotiation until the settlement becomes final. A settlement agreement can be re-opened for medical treatment only, upon a showing of medical worsening, and if medical benefits are settled, payment must be dispensed pursuant to a schedule of payments reasonably calculated to provide periodic payments throughout the expected time during which the worker will need medical treatment.

L&I must maintain copies of settlements and furnish copies upon request to any party contemplating any subsequent voluntary settlement with the worker on any claim. L&I must also furnish claims histories that include all prior permanent disability awards received by the worker on any claim by body part and category or percentage rating, as applicable. If a worker has received a prior award of, or entered into a settlement for, total or partial permanent disability benefits, it must be conclusively presumed that the medical condition causing the prior disability exists and is disabling at the time of any subsequent injury or disease. The accumulation of all permanent disability awards issued with respect to any one part of the body may not exceed 100 percent over the worker's lifetime.

Transitional or Light-Duty Work. Return-to-work provisions are amended. An employer may provide light-duty or transitional work to an injured worker without first seeking permission to do so from a health care provider. Temporary total disability payments stop when an injured worker starts light-duty or transitional work.

Study Provisions. L&I must contract out for the following studies:

- a study of voluntary settlements, every five years until 2028; and
- a study of the Stay-At-Work Subsidy Program due in 2018.

Appropriation: None.

Fiscal Note: Requested on January 29, 2015.

Committee/Commission/Task Force Created: No.

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