

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

Call to Order: By Senator Gary C. Aklestad, on March 2, 1989, at 1:00 P.M. in room 415 of the state Capitol.

ROLL CALL

Members Present: Ten members of the committee were present. Senator Tom Keating, Vice-Chairman, Senator Sam Hofman, Senator J.D. Lynch, Senator Gerry Devlin, Senator Dennis Nathe, Senator Richard Manning, Senator Chet Blaylock, and Senator Gary Aklestad, Chairman.

Members Excused: Senator Pipinich was excused.

Members Absent: There were no members absent.

Staff Present: Tom Gomez, Legislative Council Analyst.

Announcements/Discussion: There were no announcements or discussion.

HEARING ON HOUSE BILL 347

Presentation and Opening Statement by Sponsor:

Representative Clyde Smith, Kalispell, MT, House District No. 5, stated HB 347 generally revises various sections of the laws relating to Workers' Compensation. HB 347 sections include housekeeping items, language clarification, and changes which will allow the system to work more effectively. None of the sections seriously impact the coverage or benefit sections of current law. The division, cooperating with other people working in the Workers' Compensation System, agreed to several amendments presented at the labor committee hearing. These amendments are included in the amended bill. SB 347 addresses a number of items: 1) It enables the division to request records from insurers to accurately reflect names and periods covered. A fine is established for possible non-reporting; 2) It changes the definition of job pool in order to make it more workable; 3) It verifies when total rehabilitation benefits

begin after an individual has reached maximum medical improvement; 4) It establishes a basis upon which insurers reimburse injured workers for travel expenses; 5) It clarifies when a 14-day notice of benefit termination should be issued; 6) It allows the 6-day wage loss waiting period to mean either six day of wage loss or 48 hours--whichever is less; 7) It defines the term "wages" and "payroll" as the same thing for both premium and wage compensation purposes; 8) It limits State Fund Audit Assessments and Refunds to 3 years; 9) It requires partners and sole proprietors to declare the premium wage base, which becomes the wage base for benefit purposes; 10) It codifies case law to include the wage base calculation earnings from concurrent employment; 11) It allows a workers' compensation insurer to receive information from a medical provider for an indefinite period, as long as the injured worker has signed a claim for benefits; and 12) It gives the division enforcement authority by providing a penalty on insurers who do not submit required information. The Fiscal impact of \$14,700 primarily allows the division to prepare and disseminate information to affected parties about changes in this bill. These are one-time costs. HB 347 DOES: a) Clarify some ambiguities in the current act; b) Responds to court decisions; and c) Establishes Legislative Intent. HB 347 DOES NOT: a) Change the current benefit structure, or, b) Change the current rate making system.

List of Testifying Proponents and What Group they Represent:

Bill Palmer, Interim Administrator, representing the Workers' Compensation Division.

George Wood, Executive Secretary, representing the Montana Self Insurer Association.

Michael Sherwood, representing the Montana Trial Lawyers Association.

James Tutwiler, representing the Montana Chamber of Commerce.

Testimony:

Bill Palmer, Interim Administrator of the Workers' Compensation Division stated HB 347 enables the Division to request records from insurers. The records reflect the individual's coverage and gives information concerning the time period. HB 347 includes a fine of not more than \$200 for failure to report accurate information. The Job Pool is defined to make HB 347 more workable. Section 3 verifies when total rehabilitation begins, and when an individual has reached maximum healing/maximum medical improvement. HB 347

establishes a basis to reimburse injured workers for travel expense. The amount is the same amount State employees receive for milage and meal allowance. A 14-day benefit termination notice is defined. Currently, notices must be sent to clients when benefits are cut off or start. HB 237 states insurers will not be required to give written notice. The wage loss waiting period adds a 48 hour wage loss waiting period to the current 6 days of loss, whichever is less. The terms, wages and payroll, are the same for premium and benefit purposes. Currently, wages and payroll are interpreted differently. HB 337 clarifies the limitation. State fund audit assessments and refunds are limited to three years. Partners and sole proprietors will declare the premium wage base, which will become the wage base for benefit purposes. If an individual is hurt at one of his/her three jobs, the benefits will be based on all the jobs combined because it is part of the earning base. The insurer has the right to receive medical information continuously, without a 30 month delay. The private carriers and self insurers are required to submit information to the insurance compliance bureau. Sections 15, extension of authority, and 16, effective dates, are replaced. Mr. Palmer submitted written testimony. (Exhibit 1)

George Wood, Executive Secretary of the Montana Self Insurer Association, stated HB 347 was submitted to employers and trial attorneys for discussion. HB 347 incorporates points of mutual agreement. Therefore, the Association urges passage of the legislation.

Michael Sherwood, Montana Trial Lawyers Association, stated support for HB 347.

James Tutwiler, Montana Chamber of Commerce, stated HB 347, in aggregate, will mean the significant upgrading of the administrative procedure. Tutwiler urged support for HB 347.

List of Testifying Opponents and What Group They Represent:

John Anderson, Helena, Montana, representing himself.

Testimony:

John Anderson, Helena, Montana, stated he had wrist surgery in 1987. After the injury the mill, where he was employed, tightened the green chain in order to increase speed by twenty-five percent. Mr. Anderson stated he has a copy of the neurological report. The report states the green chain pulling activity should be done by machine rather than by human. Most humans can't stand the tension. The company maintains the mill is a safe place to work, but it is not.

Currently, the mill is paying a bonus if workers can work faster. The process speeds up the machinery which will casue, which means there will be more accidents.

There were no further opponents.

Questions From Committee Members:

Senator Blaylock asked Mr. Anderson if he wants the mill to be made safer. Mr. Anderson stated, for starters that would help solve the problem... Senator Blaylock stated it is the old language the Workers' Compensation is using. On page 3, line twenty-two, under rehabilitation, The language states there is no retraining fund. I was a good worker, there is no place to turn.

Senator Aklestad asked about the amount specified in the fiscal note. Representative Smith replied the money was for the computer. The \$14,700 impact of the fiscal note is for notifications, coordination, administration. The reimbursement of travel costs would be for claimants so there would be a standard set to apply to the private carrier, the state fund, or self insurers. The fiscal note is strictly a State Fund operating cost for notification issue. Senator Aklestad stated the department will establish one travel standard figure. Yes, the standard would be the amount given to state employees for travel reimbursement. \$24 per day for room, and \$14.50 for meals, and \$.21 for milage.

Closing by Sponsor:

Representative Clyde Smith expressed concern over Mr. Anderson's plight, noting HB 347 does not effect the situation in any way. Representative Smith urged passage of HB 347.

HEARING ON HOUSE BILL 348

Presentation and Opening Statement by Sponsor:

Representative Marks, House District 75, stated HB 348 is a housekeeping bill that develops a new method of selecting a list of positions to serve on the occupation and disease panel, and provides the retroactive payment. HB 348 is an act to generally revise the laws relating to occupational disease to clarify the medical panel examination and hearing processes; and amending sections 39-72-601, 39-72-612, and 39-72-706, MCA; and providing an effective date and some retroactive application.

List of Testifying Proponents and What Group they Represent:

William R. Palmer, Interim Administrator, representing the Division of the Workers' Compensation.

George Wood, Executive Secretary, representing the Montana Self Insurer Association.

Michael Sherwood, representing the Montana Trial Lawyers Association.

James Tutwiler, representing the Montana Chamber of Commerce.

Testimony:

William R. Palmer, Interim Administrator, Division of Workers' Compensation, stated HB 348 brings the existing law into line with the expansion of the 1987 Occupational Disease definition. Since conditions such as carpal tunnel were moved to the Occupational Disease Act, additional specialties, such as neurology and orthopedics, are now required for panels. The method of selecting panels currently in the law has not been used for some time, and the proposed method is more in line with current practice. The Workers' Compensation Division use the Board of Medical Examiners to help u select physicians for impairment ratings. The same procedure would apply to Occupational Disease Panel. Also, the panels are not single groups of physicians. but change depending on the specific disease or case in question. The Section 39-72-602, MCA, amendment allows a different chairman to be selected for each case.

Michael Sherwood, Montana Trial Lawyers, Association, stated the Association had some concerns about the prorating of medical benefits, and other occupational benefits. The amendments were recommended, then amended, in the House. The Association now recommends HB 348 TO BE CONCURRED IN.

James Tutwiler, Montana Chamber of Commerce, stated the Commerce has reviewed HB 348 and fell it will provide for a better administration process. Tutwiler urged passage of HB 348.

List of Testifying Opponents and What Group They Represent:

John Anderson, representing himself.

Testimony:

John Anderson stated when you become impaired and have no way of retraining and are eligible for social security, it

doesn't do any good because it is a sabbatical from General Assistance.

Questions From Committee Members:

Senator Nathe asked Bill Palmer what is gained by subtracting the social security. Palmer stated that HB 348 does not address this issue. The topic is offset. In approximately 1973, federal law stated if a state does not take an offset, then the federal law will take 100%. Montana law changed in 1974, allowing the state to take a 50% offset. If the state didn't take a 50% off set against social security benefits, the social security administration would take a 100% off set against workers' compensation benefits. The injured worker comes out a little ahead.

Closing by Sponsor:

Senator Marks stated HB 348 clarifies current law and urged support of HB 348.

HEARING ON HOUSE BILL 391

Presentation and Opening Statement by Sponsor:

Representative Jerry Driscoll, House District 92, chief sponsor stated HB 391 is an act to extend collection of penalties and interest on overdue employer contributions to the State Unemployment Insurance Fund for use by the Department of Labor and Industry to administer the Unemployment Insurance Law and for programs to train and retrain unemployed and under-employed persons; amending section 3, Chapter 13, Special Laws of June 1986; and providing an immediate effective date. Representative Driscoll stated HB 391 allows the money in the penalty and interest account in the Unemployment Insurance Fund to continue to be used for the dislocated workers money to match the \$1 million federal money. In the 1986 special session, the state was short of General Fund money and designated this money to relieve the shortage. Prior to 1983, the money was used for job service offices and buildings. The Department of Labor bought a corner lot in Bozeman. An uproar pursued, until Representative Norm Wallin of Bozeman stopped the procedure because Representative Wallin thought the state overpaid for the property. Since, the money has been used to offset other General Fund money. This is the money that has been used to match the Dislocated Workers' federal money. The bill will continue this procedure until other future legislation will stop it.

List of Testifying Proponents and What Group they Represent:

Susan Mohr, Administrator of the Employment Policy Division, representing the Department of Labor and Industry.

Testimony:

Susan Mohr, Administrator of the Employment Policy Division, Department of Labor and Industry, stated the Division supports HB 391. The Employment Policy Division operates the program which funds the program, General Fund Relief. Representative Wallin introduced this bill two years ago with a sunset provision, with the idea should the General Fund situation improve, the fund would switch back to General Fund. This has happened.

List of Testifying Opponents and What Group They Represent:

There were no testifying opponents to HB 391.

Questions From Committee Members:

Senator Nathe asked Ms. Mohr how much money is currently in the account. Ms. Mohr stated the fiscal note \$320,000 per year.

Senator Nathe asked if money has accumulated. Yes. Rusty Harper, Unemployment Insurance Division, stated the money is penalty and interest paid by employers if they do not pay the UI tax. At the end of every year, if the money isn't spent for UI Taxes, the money goes into the Trust Fund. No money is ever accumulated in the account.

Senator Nathe stated HB 391 provides for spending the money rather than putting the money into the fund. Harper stated the money will continue to be put into the trust fund. It is only up to the limit, if there are monies above that, the money will automatically go to the Trust Fund.

Senator Keating asked what the current surplus is in the UI Trust Fund. Approximately \$63 million. Senator Keating asked when does the state gets a rate break. Mr. Harper said the rate break will be announced by the Governor soon.

Senator Devlin asked Representative Driscoll if the bill will sunset. Representative Driscoll stated if someone wants to repeal the sunset, they must take the initiative. When a sunset is put on a bill, it causes more work for the legislature. If a legislator wants to repeal, the legislator puts a repealer on the bill. The legislator comes back and increase the bill each session.

Closing by Sponsor:

Representative Driscoll urged passage HB 391.

DISPOSITION OF HOUSE BILL 391

Discussion:

Senator Blaylock asked if the committee had any objection to dealing with HB 391. Senator Keating stated the money has been appropriated by the Appropriation Subcommittee.

Recommendation and Vote:

Senator Blaylock moved HB 391, recommending the committee give a BE CONCURRED IN recommendation with no amendments.

Senator Aklestad stated, even though the money has been appropriated, he does not agree with the appropriations. If both monies are going into the unemployment trust fund and monies, like this being used in other areas, a tertiary effect would have happened earlier. Although, we are just dealing with \$700,000. Senator Keating stated it is either this money or General Fund Money. Senator Aklestad did not agree.

Senator Keating asked is some of the money used for federal match money. Susan Mohr stated some of the money is used for the Dislocated Workers' Program. Senator Aklestad voted NO. The motion passed.

DISPOSITION ON HOUSE BILL 243

Discussion:

Senator Nathe asked if the Legislative Council Committee Legislators make the decision about how bills are drafted. Tom Gomez stated the Legislative Council publishes a book specifying the style and language for the preparation of bill. The manual is used also by state agency personnel.

Amendments and Vote:

Senator Devlin moved the Statement of Intent. The motion passed.

Amendment and Vote:

Senator Keating moved the Governor's amendments. The motion passed, with Senators Blaylock, Manning, Lynch and Pipinich voting NO.

Recommendation and Vote:

Senator Keating made a motion to consider HB 243 BE CONCURRED IN AS AMENDED, with a Statement of Intent. The motion passed unanimously. Senator Keating will carry the bill.

Senator Blaylock will carry HB 391.
Senator Nathe will carry HB 348.
Senator Manning will carry HB 154.

DISPOSITION OF HOUSE BILL 348

Recommendation and Vote:

Senator Nathe moved that HB 348 BE CONCURRED IN, with no amendments. The motion passed.

DISPOSITION OF HOUSE BILL 347

Discussion:

Senator Aklestad said HB 347 is bound to increase the cost of some insurers, if the insurers are not up to the established rate. Senator Aklestad asked if the increase topic has been discussed. Jim Murphy stated the travel expenses deals with a \$70,000 claim. It is easier to have a standard rate set.

Recommendation and vote:

Senator Blaylock made a motion BE CONCURRED IN. The motion passed unanimously. Senator Manning will carry the bill.

ADJOURNMENT

Adjournment At: The meeting was adjourned at 2:39 P.M.



Senator Gary C. Aklestad, Chairman

GCA/mfe

Minutes.302

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: *March 2, 1989*

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	X		
SENATOR SAM HOFMAN	X		
SENATOR J.D. LYNCH	X		
SENATOR GERRY DEVLIN	X		
SENATOR BOB PIPINICH			X
SENATOR DENNIS NATHE	X		
SENATOR RICHARD MANNING	X		
SENATOR CHET BLAYLOCK	X		
SENATOR GARY AKLESTAD	X		

SENATE STANDING COMMITTEE REPORT

March 4, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 391 (third reading copy -- blue), respectfully report that HB 391 be concurred in.

Sponsor: Driscoll (Blaylock)

BE CONCURRED IN

Signed: 
Gary C. Aklestad, Chairman

Handwritten notes:
H. C. Driscoll
3/4/89

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 4, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 243 (third reading copy -- blue), respectfully report that HB 243 be amended and as so amended be concurred in:

Sponsor: Rice (Keating)

1. Page 1, line 13.
Following: line 12
Insert: -"

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 3 and 6] delegate authority to the department of social and rehabilitation services to adopt rules necessary for administration of programs and services provided in [sections 1, 3, and 5].

It is the intent of the legislature, in enacting this bill, to establish a comprehensive program of supervised work and support services for persons with severe disabilities. The program must include sheltered employment, supported employment, work activity, and support services that will help persons who are severely disabled to lead socially and vocationally productive lives so they can be integrated into society.

The department may adopt such rules as are necessary to implement a spectrum of services under the program. Rules may be adopted to govern eligibility for services, certification of services, program staffing, staff training, service goals and design, quality of services, recipient placement procedures, individual service plans, recipient rights and privileges, recipient grievance procedures, fair hearings, provider relationships, provider accounting procedures, and any other matters necessary to implement the provisions of this bill."

2. Page 8, line 19.
Following: line 18

Insert: "NEW SECTION. Section 7. Coordination requirements -- consolidation of services authorized. (1) The governor shall assure that services under this part are coordinated with programs and services in Title 53, chapter 7, parts 1 and 3, and Title 53, chapter 19, part 1, that are administered by the department with funds provided under the federal Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as amended.

(2) The governor may consolidate services under this part with other programs and services in order to maximize coordination of services as required in subsection (1) and to prevent overlapping and duplication of services within state government."

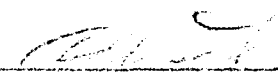
Renumber: subsequent sections

3. Page 8, line 20.
Following: "5"
Strike: "and 6"
Insert: "through 7"

4. Page 8, line 23.
Following: "5"
Strike: "and 6"
Insert: "through 7"

5. Page 8, line 25.
Following: "6"
Strike: ", 7,"
Insert: "through 8"

AND AS AMENDED BE CONCURRED IN
Statement of Intent Adopted

Signed: 
Gary C. Aklestad, Chairman

41.0.
214159
9: 11

SENATE STANDING COMMITTEE REPORT

March 4, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 348 (third reading copy -- blue), respectfully report that HB 348 be concurred in.

Sponsor: Marks (Nathe)

BE CONCURRED IN

Signed: 
Gary C. Aklestad, Chairman

*J.C. 3/11/89
2141
9:00*

SENATE STANDING COMMITTEE REPORT

March 7, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 347 (third reading copy -- blue), respectfully report that HB 347 be amended and as so amended be concurred in:

Sponsor: Smith (Manning)

1. Page 16, line 13.

Following: "factors"

Insert: "up to one year. The division may only apply modification factors retroactively when the factor is delayed because the rating bureau has not received sufficient data from previous carriers to calculate a final modification factor"

AND AS AMENDED BE CONCURRED IN

Signed: 
Gary C. Aklestad, Chairman

DIVISION TESTIMONY

HB 347

Generally Revise Workers' Compensation Laws

Section 1

Notice of Cancellation Penalty

Existing statutes require insurers to notify the Division 20 days prior to the date they intend to cancel a workers' compensation insurance policy. This allows the Division's records to accurately reflect the insurer responsible for the payment of claims when submitted to the Division. The current law provides no penalty if the insurer fails to notify the Division of the cancellation. The proposed legislation allows the Division to assess a penalty of no more than \$200, and the insurer has the right to contest the assessment of such a penalty.

Section 2

Job Pool and Rehabilitation

The current definition of job pool as adopted in the 1987 Reform is not as clear as it could be and, in some cases, is not applicable. The proposed legislation is merely a change in the definition in order to make the system more workable. It also clarifies when total rehabilitation benefits begin.

Total Rehabilitation Benefits

Temporary Total Disability benefits terminate on the date maximum medical improvement (MMI) is reached, but current law (39-71-1023) does not allow Total Rehabilitation benefits to begin until both MMI and designation of a rehabilitation provider occurs, thus leaving a possible gap. The insurer is supposed to designate a rehabilitation panel as soon as the disabled worker reaches MMI, but if a delay occurs, the worker could technically be without benefits for a period of time.

The amendment automatically begins Total Rehabilitation benefits at MMI whether or not a rehabilitation provider has been designated. The 26-week rehabilitation period does not begin until the Division is notified a provider has been designated.)

Section 4

Travel Expenses for Medical Care

Insurers have normally paid travel expenses incurred by the claimant for travel to obtain medical care. The statutes have never expressed the amount which should be paid for reasonable travel expenses. The proposed legislation sets the amount at the same rates which would be allowed for reimbursement of travel by state employees.

No Notice for Benefits Reduction

The present statutes, which require insurers to provide a 14-day notice upon termination of benefits, somewhat conflict with the new reform legislation in that under the new legislation, the insurer may continue to pay biweekly benefits, but the type of benefit category changes. For example, a claimant, under the new law, can be switched from Temporary Total benefits to Total Rehabilitation benefits, and the rate of pay is exactly the same. Technically, such a change would require a 14-day notice under the existing statutes. The purpose of the proposed legislation is to clarify the point that the insurer only provide(s) the 14-day notice when all biweekly benefits are terminated. The law allows the right of appeal in other situations where the biweekly benefits of the injured worker are changed from one category to another.

Section 6

~~Amendment to Delete~~

Adds a 48 hour wage loss waiting period to the current 6 days or less whichever is less. Allows for circumstances where a person works other than a five 8-hour days. Allows workers to qualify for benefits sooner if they work longer hours in a given day. e.g. 4-10hr days

Section 7, 8, and 9

Payroll Definition

The terms wages and payroll are used in workers' compensation to both determine the amount of premium paid and to determine the amount of compensation paid in the case of a claim. The definitions in the Act of these two terms do not necessarily coincide; and therefore, the purpose of the legislation is to make sure the definition of wages and payroll are uniform.

Section 10

Limit Premium Collection

The purpose of this amendment is to place reasonable time frames on the number of years the Division can go back and assess premium or issue refunds through audit or other types of adjustments. The selection of three years is in accordance with what Unemployment Insurance is allowed to do, and at least partially eliminates a burden on the employer in the case of a premium charge and on the State Compensation Insurance Fund in the case of premium refund.

Section 11

Partners/Proprietors' Coverage

Under the Workers' Compensation Act, sole proprietors and working partners may elect to provide coverage for themselves, and the purpose of the proposed legislation is to clarify the wage base to be used if a covered sole proprietor or working partner is injured on the job. The wage base to be used will be consistent with the wage base identified by the sole proprietor or partner at the time the election for coverage is made.

Section 12

Wages for Concurrent Employment

The purpose of this section is to clarify when wages from two different employments should be aggregated in order to calculate the claimant's compensation rate. This is, in part, a codification of case law. It should be noted that for Temporary Total the State Compensation Insurance Fund does aggregate wages.

Release of Information

The Health Care Information Act enacted by the 1987 Legislature restricts the dissemination of health care information by health care providers. This restriction could require insurers to obtain written releases for health care information every 30 months--even though the injured worker signs a claim form which serves as a medical release so the treating physicians can provide information to the insurer. The medical information is obviously necessary in order to determine the compensation benefits due an injured worker. The proposed legislation in effect exempts the workers' compensation insurer from these restrictions as long as the insurer has a signed claim form.

Section 14

Failure to Submit Records Penalty

The present law requires insurers and adjusters to submit reports and information to the Insurance Compliance Bureau in order for them to effectively monitor claims. The proposed legislation subjects insurers and adjusters to a penalty of not less than \$200 and not more than \$500 for failing to submit the information required.

old Section 15 and 16

Amendment to Delete

NEW Section ~~15~~ 15

Extension of Rule Authority

NEW Section ~~16~~ 16

Effective Dates -- (7/1/89 Most Sections)

William R. Palmer

Interim Administrator

3/2/89

Senate Labor Rm. 415

1:00 P.M. H.B. 347

March 2

Presentation

2nd 97-0

Exhibit 1A
HB 347
3-2-89
Pg. 1 of 3

HOUSE BILL 347

Second Reading - Montana House of Representative
by
Representative Clyde Smith

HOUSE BILL 347 GENERALLY REVISES VARIOUS SECTIONS OF THE LAWS RELATING TO WORKERS' COMPENSATION. SOME OF ITS SECTIONS INCLUDE HOUSEKEEPING ITEMS, LANGUAGE CLARIFICATION, AND CHANGES WHICH WILL ALLOW THE SYSTEM TO WORK MORE EFFECTIVELY. NONE OF THE SECTIONS SERIOUSLY IMPACT THE COVERAGE OR BENEFIT SECTIONS OF CURRENT LAW. THE DIVISION, IN A SPIRIT OF COOPERATION WITH OTHER PARTIES IN THE WORKERS' COMPENSATION SYSTEM, AGREED TO SEVERAL AMENDMENTS WHICH WERE PRESENTED AT THE LABOR COMMITTEE HEARING. THESE AMENDMENTS ARE NOW INCLUDED IN THIS AMENDED BILL AS IS ANOTHER COMMITTEE AMENDMENT.

THE BILL YOU HAVE BEFORE YOU ADDRESSES A NUMBER OF ITEMS.

(1) IT ENABLES THE DIVISION TO REQUEST RECORDS FROM INSURERS WHICH ACCURATELY REFLECT WHO THEY COVER AND FOR WHAT PERIOD AND INCLUDES A

HB 347
Palmer

Exhibit 1A
HB 347
3-289
PS-208

FINE FOR POSSIBLE NONREPORTING; (2) CHANGES THE DEFINITION OF JOB POOL IN ORDER TO MAKE IT MORE WORKABLE; (3) VERIFIES WHEN TOTAL REHABILITATION BENEFITS BEGIN AFTER AN INDIVIDUAL HAS REACHED MAXIMUM MEDICAL IMPROVEMENT; (4) ESTABLISHES A BASIS UPON WHICH INSURERS REIMBURSE INJURED WORKERS FOR TRAVEL EXPENSES; (5) CLARIFIES WHEN A 14-DAY NOTICE OF BENEFIT TERMINATION SHOULD BE ISSUED; (6) ALLOWS THE 6-DAY WAGE LOSS WAITING PERIOD TO MEAN EITHER SIX DAYS OF WAGE LOSS OR 48 HOURS--WHICHEVER IS LESS; (7) DEFINES THE TERM "WAGES" AND "PAYROLL" AS THE SAME THING FOR BOTH PREMIUM AND WAGE COMPENSATION PURPOSES; (8) LIMITS STATE FUND AUDIT ASSESSMENTS AND REFUNDS TO 3 YEARS; (9) REQUIRES PARTNERS AND SOLE PROPRIETORS TO DECLARE THE WAGE BASE FOR PREMIUM PURPOSES WHICH ALSO BECOMES THE WAGE BASE FOR BENEFIT PURPOSES; (10) CODIFIES CASE LAW TO INCLUDE IN THE WAGE BASE CALCULATION EARNINGS FROM CONCURRENT EMPLOYMENT; (11) ALLOWS A WORKERS' COMPENSATION INSURER TO RECEIVE INFORMATION FROM A MEDICAL PROVIDER FOR AN INDEFINITE PERIOD AS LONG AS THE INJURED WORKER HAS SIGNED A CLAIM FOR BENEFITS; AND (12) GIVES THE DIVISION ENFORCEMENT AUTHORITY BY PROVIDING A PENALTY ON INSURERS WHO DO NOT SUBMIT REQUIRED INFORMATION.

347
lmar

Ex # 1A
HB347
3-289
pg 3 of 3

THE FISCAL IMPACT OF \$14,700 ON THIS BILL PRIMARILY ALLOWS FOR THE DIVISION TO PREPARE AND DISSEMINATE INFORMATION TO AFFECTED PARTIES ABOUT THE CHANGES IN THIS BILL. THESE ARE ONE-TIME COSTS.

NOTE: THIS BILL DOES (A) CLARIFY SOME AMBIGUITIES IN THE CURRENT ACT; (B) RESPONDS TO COURT DECISIONS; AND (C) ESTABLISHES LEGISLATIVE INTENT.

THE BILL DOES NOT (A) CHANGE THE CURRENT BENEFIT STRUCTURE OR (B) CHANGE THE CURRENT RATE MAKING SYSTEM.

END

Sections 13-15-16 effective on passage and approval.

All other sections effective July 1, 1989

HB 347
3-2-89
PS 1067

BILL INFORMATION

HB 347

Generally Revise Workers' Compensation Laws
by
Representative Clyde Smith

Section 1

Notice of Cancellation Penalty

Existing statutes require insurers to notify the Division 20 days prior to the date they intend to cancel a workers' compensation insurance policy. This allows the Division's records to accurately reflect the insurer responsible for the payment of claims when submitted to the Division. The current law provides no penalty if the insurer fails to notify the Division of the cancellation. The proposed legislation allows the Division to assess a penalty of no more than \$200, and the insurer has the right to contest the assessment of such a penalty.

Section 2

Job Pool and Rehabilitation

The current definition of job pool as adopted in the 1987 Reform is not as clear as it could be and, in some cases, is not applicable. The proposed legislation is merely a change in the definition in order to make the system more workable. It also clarifies when total rehabilitation benefits begin.

Section 3

Total Rehabilitation Benefits

Temporary Total Disability benefits terminate on the date maximum medical improvement (MMI) is reached, but current law (39-71-1023) does not allow Total Rehabilitation benefits to begin until both MMI and designation of a rehabilitation provider occurs, thus leaving a possible gap. The insurer is supposed to designate a rehabilitation panel as soon as the disabled worker reaches MMI, but if a delay occurs, the worker could technically be without benefits for a period of time.

The amendment automatically begins Total Rehabilitation benefits at MMI whether or not a rehabilitation provider has been designated. The 26-week rehabilitation period does not begin until the Division is notified a provider has been designated.)

Section 4

Travel Expenses for Medical Care

Insurers have normally paid travel expenses incurred by the claimant for travel to obtain medical care. The statutes have never expressed the amount which should be paid for reasonable travel expenses. The proposed legislation sets the amount at the same rates which would be allowed for reimbursement of travel by state employees.

Section 5

No Notice for Benefits Reduction

HB 347

3-2-89

PG 3 of 7

The present statutes, which require insurers to provide a 14-day notice upon termination of benefits, somewhat conflict with the new reform legislation in that under the new legislation, the insurer may continue to pay biweekly benefits, but the type of benefit category changes. For example, a claimant, under the new law, can be switched from Temporary Total benefits to Total Rehabilitation benefits, and the rate of pay is exactly the same. Technically, such a change would require a 14-day notice under the existing statutes. The purpose of the proposed legislation is to clarify the point that the insurer only provide(s) the 14-day notice when all biweekly benefits are terminated. The law allows the right of appeal in other situations where the biweekly benefits of the injured worker are changed from one category to another.

Section 6

Wage Loss Waiting Period

Adds a 48 hour wage loss waiting period to the current 6 days of loss whichever is less. Addresses cases where a person works other than five 8-hour days. Allows workers to qualify for benefits sooner if they work longer hours in a given day.

Section 7, 8, and 9

Payroll Definition

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The terms wages and payroll are used in workers' compensation to both determine the amount of premium paid and to determine the amount of compensation paid in the case of a claim. The definitions in the Act of these two terms do not necessarily coincide; and therefore, the purpose of the legislation is to make sure the definition of wages and payroll are uniform.

Section 10

Limit Premium Collection

The purpose of this amendment is to place reasonable time frames on the number of years the Division can go back and assess premium or issue refunds through audit or other types of adjustments. The selection of three years is in accordance with what Unemployment Insurance is allowed to do, and at least partially eliminates a burden on the employer in the case of a premium charge and on the State Compensation Insurance Fund in the case of premium refund.

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Section 11

Partners/Proprietors' Coverage

Under the Workers' Compensation Act, sole proprietors and working partners may elect to provide coverage for themselves, and the purpose of the proposed legislation is to clarify the wage base to be used if a covered sole proprietor or working partner is injured on the job. The wage base to be used will be consistent with the wage base identified by the sole proprietor or partner at the time the election for coverage is made.

Section 12

Wages for Concurrent Employment

The purpose of this section is to clarify when wages from two different employments should be aggregated in order to calculate the claimant's compensation rate. This is, in part, a codification of case law. It should be noted that for Temporary Total the State Compensation Insurance Fund does aggregate wages.

Section 13

Release of Information

The Health Care Information Act enacted by the 1987 Legislature restricts the dissemination of health care information by health care providers. This restriction could require insurers to obtain written releases for health care information every 30 months--even though the injured worker signs a claim form which serves as a medical release so the treating physicians can provide information to the insurer. The medical information is obviously necessary in order to determine the compensation benefits due an injured worker. The proposed legislation in effect exempts the workers' compensation insurer from these restrictions as long as the insurer has a signed claim form.

Section 14

Failure to Submit Records Penalty

The present law requires insurers and adjusters to submit reports and information to the Insurance Compliance Bureau in order for them to effectively monitor claims. The proposed legislation subjects insurers and adjusters to a penalty of not less than \$200 and not more than \$500 for failing to submit the information required.

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Section 15 and 16

Deleted all reference to the Workers' Compensation Court.

New Section 15

Extension of Rule Authority

New Section 16

Effective Dates -- (7/1/89 Most Sections)

Prepared by:

William R. Palmer

Interim Administrator

2/6/89

(This sheet to be used by those testifying on a bill.)

HB 347

HB 348

3-2-89

NAME: JOHN B. ANDERSON DATE: MARCH 2ND

ADDRESS: SE 980 SKALKAKHO RD HAMILTON

PHONE: 363-4138

REPRESENTING WHOM? SELF & CLAIMEES

APPEARING ON WHICH PROPOSAL: 347 + 348

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? X

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

LABOR COMMITTEE

VISITORS' REGISTER

51st LEGISLATIVE SESSION

DATE: March 2, 1989

LEAVE PREPARED STATEMENTS WITH SECRETARY! PLEASE!!!

PRINT: NAME	REPRESENTING ^{Name +} Address	Check One	
		Support	Oppos
John B. Anderson	SE 980 SKALKAGO RD-HAMILTON		X ^{HB347} " 348
Rusty Harper	Dept. of Labor + Industry	HB 391	
Big Palmer	Workers' Comp	#B 347 HB 348	
George Wood	MT. Self Insurers	HB 347 HB 348	
Jim Van Arsdale	City of Billings	HB 347	
Kay Foster	Billings Chamber	HB 347	
Pea Williams	SRS	HB 243	
Marie Bullock	"	"	
Bob Heiser	UFCW	HB 347	HB 348
Jim Murphy	MT Div of Worker Comp	347 348	
Bud Clinch	MONTANA LOGGING ASSOC.	347	
Keith Olson	" " "	347	
Mike Sherwood	MTLA	347+ 348	
Barb Marks		348	
Andy Smith		347	
Sue Mohn	MT Labor + Ind.	HB 391 X	