

SENATE BILL NO. 218

1/22 Introduced
1/24 Referred to Labor & Employment Relations
1/25 Fiscal Note Requested
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2/09 Hearing
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SENATE BILL NO. 218
INTRODUCED BY Richard E. Manning Orisell

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A LUMP-SUM WORKERS' COMPENSATION PAYMENT AT THE REQUEST OF THE WORKER OR HIS BENEFICIARY AND TO ELIMINATE THE WORKERS' COMPENSATION DIVISION'S POWERS AND DUTIES RELATING TO APPROVAL OF A COMPROMISE OR SETTLEMENT; AMENDING SECTION 39-71-741, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-741, MCA, is amended to read:

"39-71-741. Compromise settlements and lump-sum payments ~~---division--approval--required.~~ The biweekly payments provided for in this chapter ~~may~~ must be converted, in whole or in part at the discretion of the injured worker or the worker's beneficiary, into a lump-sum payment. ~~Such conversion--can--only--be--made~~ upon the written application of the injured worker or the worker's beneficiary, with the concurrence of the insurer, ~~and shall rest in the discretion of the division, both as to the amount of such lump-sum payment and the advisability of such conversion.~~ ~~The division is hereby vested with full power, authority, and jurisdiction to allow and approve compromises of claims under this chapter.~~ ~~All settlements and compromises of~~

~~1 compensation provided in this chapter are void without the~~
~~2 approval of the division. Approval of the division must be~~
~~3 in writing. The division shall directly notify every~~
~~4 claimant of any division order approving or denying a~~
~~5 claimant's settlement or compromise of a claim as to the~~
~~6 amount of the lump sum. A controversy between a claimant~~
~~7 and an insurer regarding the conversion of biweekly payments~~
~~8 into a lump sum is considered a dispute for which the~~
~~9 workers' compensation judge has jurisdiction to make a~~
~~10 determination."~~

-End-

INTRODUCED BILL
SB 218



STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 235-85Form BD-15

In compliance with a written request received January 25, 19 85, there is hereby submitted a Fiscal Note for S.B. 218 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

"An act to require a lump-sum workers' compensation payment at the request of the worker or his beneficiary and to eliminate the Workers' Compensation Division's powers and duties relating to approval of a compromise or settlement; amending Section 39-71-741, MCA.

ASSUMPTIONS:

This bill impacts both the State Insurance Fund and the Insurance Compliance Bureau.

Insurance Compliance Bureau

- A. Eliminates Workers' Compensation Division's discretion to approve or deny compromise settlements and lump sum payments.
- B. Worker, or worker's beneficiary, must still obtain insurer's concurrence as to the amount of the lump sum.
- C. Controversy continues to be the jurisdiction of the Workers' Compensation Judge.
- D. Since Section 39-71-2908 was not amended, it is assumed that the Judge retains the authority to disapprove an order allowing a full and final compromise settlement and that all full and final compromise settlements (previously "orders" of the Division) will continue to be referred to the Judge.
- E. The Division will no longer prepare case file materials for the Judge.
- F. The Judge will have to assure that all items in a case required for his consideration are in order.
- G. Any staff reductions in the Worker's Compensation Division must be offset by increased staff in the Workers' Compensation Court. Those costs are as follows:

	<u>FY 86</u>	<u>FY 87</u>
Personal Services	\$ 84,274	\$ 84,348
Operating Expenses	26,898	36,586
	<u>\$111,172</u>	<u>\$120,934</u>

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 31, 1985
SB 218

ASSUMPTIONS: (continued)

State Insurance Fund

- A. If present value of future benefits were paid in a lump sum, then this bill would have no cost increase to employers insuring with the State Fund.
- B. If present value of future benefits cannot be used for lump sum (as is the case under the Supreme Court decision in Willis vs. State Fund), there will be a cost increase to employers insuring with the State Fund:
 - 1. Several assumptions were used in the decision to increase rates by 15% due to the Willis case. One was that not all permanently totally disabled claimants would require a lump sum. This bill could double the estimated impact used in the 15% rate increase.
 - 2. FY 85 and future permanent total cases were not considered in the 15% rate increase. Under this bill, assume all permanent total cases will request a lump sum.
- C. The remainder of the pre-FY 85 permanent total reserves not accounted for in the January 1, 1985, rate increase is \$3.9 million* plus \$230,000 for current year claims = \$4,130,000.
- D. Future permanent total cases will develop as indicated by past statistics but will require 46% more in reserves due to the Willis case. Approximately \$500,000 X 46% = \$230,000 additional in each future year expressed in 1984 dollars.
- E. A 7.9% rate increase beyond current levels would be required to fund the additional \$4.13 million in benefits. The State Fund premium in FY 86 is estimated at \$52.4 million.

*Represents the impact to reserves that were established assuming lump sum payments would be discounted. The one-time increase of the reserve of \$3.9 million and the \$230,000 estimated annual increase is due to lump sum payments not being discounted.

(1) FISCAL IMPACT ON EXPENDABLE TRUST FUND:

	<u>FY 86</u>	<u>FY 87</u>	<u>Biennium</u>
<u>Expenditures:</u>			
Current	\$ 500,000	\$ 500,000	
Proposed	4,630,000	730,000	
Net Impact	\$ 4,130,000	\$ 230,000	\$ 4,360,000

(2) FISCAL IMPACT ON STATE AGENCIES DUE TO INCREASED WORKER'S COMPENSATION RATES:

	<u>FY 86</u>	<u>FY 87</u>	<u>Biennium Impact</u>
General Fund	\$ 100,428	\$ 5,686	\$ 106,114
State & Federal			
Special Revenue	115,386	6,534	121,920
Proprietary Fund	17,132	971	18,103
Universities *	<u>39,179</u>	<u>2,219</u>	<u>41,398</u>
Total State Impact	\$ 272,125	\$ 15,410	\$ 287,535

* Due to the method used in financing the University System, these additional costs would impact the General Fund.