HOUSE BILL NO. 154

INTRODUCED BY SMITH, MARKS, AKLESTAD, THOMAS, HAYNE, OWENS, PETERSON, SPRING

BY REQUEST OF THE DIVISION OF WORKERS' COMPENSATION

IN THE HOUSE

JANUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 14, 1989	FIRST READING.
JANUARY 21, 1989	ON MOTION BY CHIEF SPONSOR, REPRESENTATIVES MARKS, AKLESTAD, THOMAS, HAYNE, OWENS, PETERSON, AND SPRING ADDED AS SPONSORS.
JANUARY 30, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 31, 1989	PRINTING REPORT.
FEBRUARY 1, 1989	SECOND READING, DO PASS.
FEBRUARY 2, 1989	ENGROSSING REPORT.
FEBRUARY 3, 1989	THIRD READING, PASSED. AYES, 97; NOES, 2.
	TRANSMITTED TO SENATE.
IN	THE SENATE
FEBRUARY 4, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
MARCH 1, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 3, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN.

AYES, 50; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 7, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1	House BILL NO. 154
2	INTRODUCED BY Smith
3	BY REQUEST OF THE DIVISION OF WORKERS' COMPENSATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE WORKERS' COMPENSATION JUDGE TO ISSUE A STAY OF EXECUTION OF A

JUDGMENT OR ORDER PENDING POSTTRIAL MOTIONS AND APPEAL: AND

PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE

APPLICABILITY DATE." 9

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

Section 1. Stay pending posttrial motions and appeal.

(1) Upon the filing of a judgment or order of the workers' compensation judge, a party may apply to the judge, upon notice or ex parte, for a stay of execution of the judgment or order. The stay may be for a period of time and be under conditions as the judge considers proper. A stay of execution may not extend for more than 30 days following the judge's disposition of posttrial motions.

(2) Except as provided by Rule 62(e), Montana Rules of Civil Procedure, the appellant may request, upon service of a notice of appeal, a stay of execution of the judgment or order pending resolution of the appeal. The appellant may request a stay by presenting a supersedeas bond to the workers' compensation judge and obtaining his approval of the bond. The bond must have two sufficient sureties or a corporate surety as authorized by law. The procedure for requesting a stay and posting a supersedeas bond must be the same as the procedure in Rule 7(b), Montana Rules of Civil Procedure.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 39, chapter 71, part 29, and the provisions of Title 39, chapter 71, part 29, apply to [section 1].

Section 3. Extension of authority. Any existing 10 authority to make rules on the subject of the provisions of 11 12 [this act] is extended to the provisions of [this act].

Section 4. Effective date. [This act] is effective on 13 14 passage and approval.

Section 5. Retroactive applicability. [This act] is procedural in nature and applies retroactively, within the meaning of 1-2-109, to any case pending before the workers' compensation judge that has not been appealed to the Montana supreme court on or before [the effective date of this act].

-End-



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[this act].

effective on passage and approval.

APPROVED BY COMMITTEE ON JUDICIARY

1	HOUSE BILL NO. 154
2	INTRODUCED BY SMITH, MARKS, AKLESTAD,
3	THOMAS, HAYNE, OWENS, PETERSON, SPRING
4	BY REQUEST OF THE DIVISION OF WORKERS' COMPENSATION
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE WORKERS'
7	COMPENSATION JUDGE TO ISSUE A STAY OF EXECUTION OF A
8	JUDGMENT OR ORDER PENDING POSTTRIAL MOTIONS AND APPEAL; TO
9	ALLOW EITHER THE WORKERS' COMPENSATION JUDGE OR THE SUPREME
10	COURT TO GRANT A STAY OF EXECUTION DURING APPEAL; AND
11	PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A-RETROACTIVE AN
12	APPLICABILITY DATE."
13	
14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	NEW SECTION. Section 1. Stay pending posttrial
16	motions and appeal. (1) Upon the filing of a judgment or
17	order of the workers' compensation judge, a party may apply
18	to the WORKERS' COMPENSATION judge, upon notice or ex parte,
19	for a stay of execution of the judgment or order. The stay
20	may be for a period of time and be under conditions as the
21	judge considers proper. A stay of execution UNDER THIS
22	SUBSECTION may not extend for more than 30 days following
23	the judge's disposition of posttrial motions.
24	(2) Except-as-provided-by-Rule-62(e),-Montana-Rules-of
25	EivilProcedure; the THE appellant may request OF THE

WORKERS' COMPENSATION JUDGE OR THE SUPREME COURT, upon
service of a notice of appeal, a stay of execution of the
judgment or order pending resolution of the appeal. The
appellant may request a stay by presenting a supersedeas
bond to the workers' compensation judge and obtaining his
approval of the bond. The bond must have two sufficient
sureties or a corporate surety as authorized by law. A COURT
GRANTING A STAY MAY WAIVE THE BOND REQUIREMENT. The
procedure for requesting a stay and posting a supersedeas
bond must be the same as the procedure in Rule 7(b), Montana
Rules of Civit APPELLATE Procedure.
NEW SECTION. Section 2. Codification instruction.
[Section 1] is intended to be codified as an integral part
of Title 39, chapter 71, part 29, and the provisions of
Title 39, chapter 71, part 29, apply to (section 1).
NEW SECTION. Section 3. Extension of authority. Any
existing authority to make rules on the subject of the
provisions of [this act] is extended to the provisions of

APPLICABILITY. [This act] is--procedural--in--nature--and applies-retroactively,-within-the-meaning-of-1-2-1097-to-any

case-pending-before-the-workers'-compensation-judge-that-has

NEW SECTION. Section 4. Effective date. [This act] is

NEW SECTION. Section 5. Retroactive ---- applicability

- 1 not-been-appealed-to-the-Montana-supreme-court-on-or--before
- 2 APPLIES TO INJURIES OCCURRING AFTER [the effective date of
- 3 this act].

-End-

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51st Legislature

HB 0154/02

2	INTRODUCED BY SMITH, MARKS, AKLESTAD,
3	THOMAS, HAYNE, OWENS, PETERSON, SPRING
1	BY REQUEST OF THE DIVISION OF WORKERS' COMPENSATION
5	
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7	COMPENSATION JUDGE TO ISSUE A STAY OF EXECUTION OF A
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9	ALLOW EITHER THE WORKERS' COMPENSATION JUDGE OR THE SUPREME
0	COURT TO GRANT A STAY OF EXECUTION DURING APPEAL; AND
1	PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A-RETROACTIVE AN
2	APPLICABILITY DATE."
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4	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
5	NEW SECTION. Section 1. Stay pending posttrial
6	motions and appeal. (1) Upon the filing of a judgment or
7	order of the workers' compensation judge, a party may apply
.8	to the WORKERS' COMPENSATION judge, upon notice or ex parte,
.9	for a stay of execution of the judgment or order. The stay
20	may be for a period of time and be under conditions as the
21	judge considers proper. A stay of execution UNDER THIS
22	SUBSECTION may not extend for more than 30 days following
23	the judge's disposition of posttrial motions.
24	(2) Except-as-provided-by-Rule-62(e);-Montana-Rules-of
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HOUSE BILL NO. 154

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2	service of a notice of appeal, a stay of execution of the
3	judgment or order pending resolution of the appeal. The
1	appellant may request a stay by presenting a supersedeas
5	bond to the workers' compensation judge and obtaining his
5	approval of the bond. The bond must have two sufficient
7	sureties or a corporate surety as authorized by law. A COURT
8	GRANTING A STAY MAY WAIVE THE BOND REQUIREMENT. The
9	procedure for requesting a stay and posting a supersedeas
0	bond must be the same as the procedure in Rule 7(b), Montana
1	Rules of Civil APPELLATE Procedure.

NEW SECTION. Section 2. Codification instruction.

[Section 1] is intended to be codified as an integral part of Title 39, chapter 71, part 29, and the provisions of Title 39, chapter 71, part 29, apply to [section 1].

NEW SECTION. Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

20 <u>NEW SECTION.</u> **Section 4.** Effective date. [This act] is 21 effective on passage and approval.

NEW SECTION. Section 5. Retroactive----applicability

APPLICABILITY. [This act] is--procedural--in--nature--and
applies-retroactively,-within-the-meaning-of-1-2-109,-to-any
case-pending-before-the-workers1-compensation-judge-that-has

- 1 not-been-appealed-to-the-Montana-supreme-court-on-or--before
- 2 APPLIES TO INJURIES OCCURRING AFTER (the effective date of
- 3 this act].

-End-

SENATE STANDING COMMITTEE REPORT

February 28, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 154 (third reading copy -- blue), respectfully report that HB 154 be amended and as so amended be concurred in:

Sponsor: Smith (Manning)

1. Title, line 11.

Strike: "AN"

Insert: "A RETROACTIVE"

2. Page 2, line 22 through page 3, line 3.

Strike: section 5 in its entirety

Insert: "NEW SECTION. Section 5. Retroactive applicability. [This act] is procedural in nature and applies retroactively, within the meaning of 1-2-109, to any case pending before the workers' compensation judge that has not been appealed to the Montana supreme court on or before the [effective date of this act].

NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

AND AS AMENDED BE CONCURRED IN

Signed:

Gary C. Aklestad, Chairman

SENATE

1	HOUSE BILL NO. 154
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0	COURT TO GRANT A STAY OF EXECUTION DURING APPEAL; AND
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2	RETROACTIVE APPLICABILITY DATE."
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.3	
. 4	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: NEW SECTION. Section 1. Stay pending posttrial
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.4 .5 .6	NEW SECTION. Section 1. Stay pending posttrial motions and appeal. (1) Upon the filing of a judgment or order of the workers' compensation judge, a party may apply
4 .5 .6 17	NEW SECTION. Section 1. Stay pending posttrial motions and appeal. (1) Upon the filing of a judgment or order of the workers' compensation judge, a party may apply to the WORKERS' COMPENSATION judge, upon notice or ex parte,
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4 -5 16 17 18 19 20	NEW SECTION. Section 1. Stay pending posttrial motions and appeal. (1) Upon the filing of a judgment or order of the workers' compensation judge, a party may apply to the WORKERS' COMPENSATION judge, upon notice or ex parte, for a stay of execution of the judgment or order. The stay may be for a period of time and be under conditions as the judge considers proper. A stay of execution UNDER THIS
.4 .5 .16 .17 .18 .19 .20 .21	NEW SECTION. Section 1. Stay pending posttrial motions and appeal. (1) Upon the filing of a judgment or order of the workers' compensation judge, a party may apply to the WORKERS' COMPENSATION judge, upon notice or ex parte, for a stay of execution of the judgment or order. The stay may be for a period of time and be under conditions as the judge considers proper. A stay of execution UNDER THIS SUBSECTION may not extend for more than 30 days following

1	WORKERS' COMPENSATION JUDGE OR THE SUPREME COURT, upon
2	service of a notice of appeal, a stay of execution of the
3	judgment or order pending resolution of the appeal. The
4	appellant may request a stay by presenting a supersedeas
5	bond to the workers' compensation judge and obtaining his
6	approval of the bond. The bond must have two sufficient
7	sureties or a corporate surety as authorized by law. $\underline{A\ COURT}$
8	GRANTING A STAY MAY WAIVE THE BOND REQUIREMENT. The
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15	Title 39, chapter 71, part 29, apply to [section 1].
16	NEW SECTION. Section 3. Extension of authority. Any
17	existing authority to make rules on the subject of the
18	provisions of (this act) is extended to the provisions of
19	[this act].
20	NEW SECTION. Section 4. Effective date. [This act] is
21	effective on passage and approval.
22	NEW-SECTION Section 5 Retroactive appireability
23	APPblCABfbffY{Thisact}is -proceduralinnatureand

applies-retroactively;-within-the-meaning-ef-1-2-100;-to-any case-pending-before-the-workerst-compensation-judge-that-has

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-End-