

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

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| 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

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| 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
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE WORKERS'
6 COMPENSATION JUDGE TO ISSUE A STAY OF EXECUTION OF A
7 JUDGMENT OR ORDER PENDING POSTTRIAL MOTIONS AND APPEAL; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
9 APPLICABILITY DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1. Stay pending posttrial motions and appeal.**

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

20 (2) Except as provided by Rule 62(e), Montana Rules of
21 Civil Procedure, the appellant may request, upon service of
22 a notice of appeal, a stay of execution of the judgment or
23 order pending resolution of the appeal. The appellant may
24 request a stay by presenting a supersedeas bond to the
25 workers' compensation judge and obtaining his approval of

1 the bond. The bond must have two sufficient sureties or a
2 corporate surety as authorized by law. The procedure for
3 requesting a stay and posting a supersedeas bond must be the
4 same as the procedure in Rule 7(b), Montana Rules of Civil
5 Procedure.

6 **Section 2. Codification instruction.** [Section 1] is
7 intended to be codified as an integral part of Title 39,
8 chapter 71, part 29, and the provisions of Title 39, chapter
9 71, part 29, apply to [section 1].

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

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

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

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 154

INTRODUCED BY SMITH, MARKS, AKLESTAD,

THOMAS, HAYNE, OWENS, PETERSON, SPRING

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; TO ALLOW EITHER THE WORKERS' COMPENSATION JUDGE OR THE SUPREME COURT TO GRANT A STAY OF EXECUTION DURING APPEAL; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A-RETROACTIVE AN APPLICABILITY DATE."

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

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 the judge's disposition of posttrial motions.

(2) ~~Except as provided by Rule 62(e), Montana Rules of Civil Procedure, 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 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].

NEW SECTION. Section 4. Effective date. [This act] is 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 1-2-1097, to any case pending before the workers' compensation judge that has

HB 0154/02

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-

HOUSE BILL NO. 154

INTRODUCED BY SMITH, MARKS, AKLESTAD,

THOMAS, HAYNE, OWENS, PETERSON, SPRING

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; TO ALLOW EITHER THE WORKERS' COMPENSATION JUDGE OR THE SUPREME COURT TO GRANT A STAY OF EXECUTION DURING APPEAL; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A-RETROACTIVE AN APPLICABILITY DATE."

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

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 the judge's disposition of posttrial motions.

(2) ~~Except as provided by Rule 62(e), Montana Rules of Civil Procedure, 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 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].

NEW SECTION. Section 4. Effective date. [This act] is 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 workers' compensation judge that has~~

HB 0154/02

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-

(4)

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.

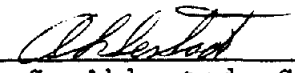
Strike: section 5 in its entirety

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

HOUSE BILL NO. 154

INTRODUCED BY SMITH, MARKS, AKLESTAD,

THOMAS, HAYNE, OWENS, PETERSON, SPRING

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; TO ALLOW EITHER THE WORKERS' COMPENSATION JUDGE OR THE SUPREME COURT TO GRANT A STAY OF EXECUTION DURING APPEAL; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A-RETROACTIVE AN A RETROACTIVE APPLICABILITY DATE."

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

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 the judge's disposition of posttrial motions.

(2) Except as provided by Rule 62(e), Montana Rules of Civil Procedure, 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 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].

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

~~NEW SECTION. Section 5. Retroactive applicability. [This act] is procedural in nature and applies retroactively, within the meaning of 1-2-1007, to any case pending before the workers' compensation judge that has~~

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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}.~~

4 NEW SECTION. SECTION 5. SEVERABILITY. IF A PART OF
5 [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE
6 FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS
7 ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART
8 REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE
9 SEVERABLE FROM THE INVALID APPLICATIONS.

10 NEW SECTION. SECTION 6. RETROACTIVE APPLICABILITY.
11 [THIS ACT] IS PROCEDURAL IN NATURE AND APPLIES
12 RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO ANY CASE
13 PENDING BEFORE THE WORKERS' COMPENSATION JUDGE THAT HAS NOT
14 BEEN APPEALED TO THE MONTANA SUPREME COURT ON OR BEFORE [THE
15 EFFECTIVE DATE OF THIS ACT].

-End-