

HOUSE BILL 347

Introduced by Hansen

1/25	Introduced
1/25	Fiscal Note Requested
1/25	Referred to House Select Committee on Workers' Compensation
1/25	First Reading
2/01	Fiscal Note Received
2/01	Fiscal Note Printed
2/03	Hearing
2/08	Hearing
2/15	Tabled in Committee

House BILL NO. 347

INTRODUCED BY: Sen. John J. ...

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING LUMP-SUM PAYMENTS BY WORKERS' COMPENSATION INSURERS TO CLAIMANTS; AMENDING SECTIONS 39-71-519 AND 39-71-721, MCA; AND REPEALING SECTION 39-71-741, MCA."

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

**Section 1.** Section 39-71-519, MCA, is amended to read:

"39-71-519. Settlement. The department, the uninsured employer, the injured employee or his the employee's beneficiaries, a third party who shares liability as defined in 39-71-412, or a fellow employee who shares liability as defined in 39-71-413 may enter into a settlement agreement to finally settle the rights and liabilities under this part of any or all of the parties. ~~Such-a-settlement-is-subject to-department-approval-in-accordance-with-39-71-741.~~"

**Section 2.** Section 39-71-721, MCA, is amended to read:

"39-71-721. Compensation for injury causing death -- limitation. (1) (a) If an injured employee dies and the injury was the proximate cause of such death, then the beneficiary of the deceased is entitled to the same compensation as though the death occurred immediately following the injury. A beneficiary's eligibility for

benefits commences after the date of death, and the benefit level is established as set forth in subsection (2).

(b) The insurer is entitled to recover any overpayments or compensation paid in a lump sum to a worker prior to death but not yet recouped. The insurer shall recover such the payments from the beneficiary's biweekly payments as ~~provided-in-39-71-741(5).~~

(2) To beneficiaries as defined in 39-71-116(3)(a) through (3)(d), weekly compensation benefits for an injury causing death are 66 2/3% of the decedent's wages. The maximum weekly compensation benefit may not exceed the state's average weekly wage at the time of injury. The minimum weekly compensation benefit is 50% of the state's average weekly wage, but in-no-event it may it not exceed the decedent's actual wages at the time of his death.

(3) To beneficiaries as defined in 39-71-116(3)(e) and (3)(f), weekly benefits must be paid to the extent of the dependency at the time of the injury, subject to a maximum of 66 2/3% of the decedent's wages. The maximum weekly compensation may not exceed the state's average weekly wage at the time of injury.

(4) If the decedent ~~leaves--no~~ does not leave a beneficiary as defined in 39-71-116, a lump-sum payment of \$3,000 must be paid to the decedent's surviving parent or parents.

1 (5) If any beneficiary of a deceased employee dies, the  
2 right of such the beneficiary to compensation under this  
3 chapter ceases. Death benefits must be paid to a surviving  
4 spouse for 500 weeks subsequent to the date of the deceased  
5 employee's death or until the spouse's remarriage, whichever  
6 occurs first. After benefit payments cease to a surviving  
7 spouse, death benefits must be paid to beneficiaries, if  
8 any, as defined in 39-71-116(3)(b) through (3)(d).

9 (6) In all cases, benefits must be paid to  
10 beneficiaries, as defined in 39-71-116.

11 (7) Benefits paid under this section may not be  
12 adjusted for cost of living as provided in 39-71-702.

13 ~~(8) Notwithstanding subsections (2) and (3), beginning~~  
14 ~~July 1, 1987, through June 30, 1991, the maximum weekly~~  
15 ~~compensation benefits for injury causing death may not~~  
16 ~~exceed the state's average weekly wage of \$299 established~~  
17 ~~July 1, 1986. Beginning July 1, 1987, through June 30, 1991,~~  
18 ~~the minimum weekly compensation for injury causing death~~  
19 ~~shall be \$149.50, which is 50% of the state's average weekly~~  
20 ~~wage established July 1, 1986, but in no event may it exceed~~  
21 ~~the decedent's actual wages at the time of death."~~

22 NEW SECTION. Section 3. Repealer. Section 39-71-741,  
23 MCA, is repealed.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0347, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act eliminating lump-sum payments by workers' compensation insurers to claimants.

ASSUMPTIONS:

State Fund:

1. The bill is not retroactive and would affect only claims for injuries arising as of the effective date.
2. According to the State Fund, lump-sum settlements, under current law restricting the use of a discount, are not highly advantageous in controlling claims expenditures. Under current law, the fiscal advantage to the State Fund of lump sum settlements is the avoidance of loss adjustment expenses and reducing the risk of adverse reserve development. However, because lump-sum settlements may not be discounted, the State Fund loses investment return that would otherwise be earned.
3. Funds which would have been paid out in lump-sum settlements would be invested to generate income.
4. A longer pay-out period on settlements would tend to increase administrative cost.

Department of Labor:

1. The Department of Labor would no longer be responsible for reviewing lump-sum settlements under 39-71-741, MCA, although the department would continue to be responsible for reviewing lump-sum settlements for claims arising from injuries occurring prior to the effective date of this bill.
2. Claims not disposed by lump-sum settlements may create other workload for the department, such as mediation or other responsibilities the department may have for active workers compensation claims.

FISCAL IMPACT:

An insufficient amount of information is available within the time frame allowed for this fiscal note to calculate the impact on the State Fund. Insofar as the State Fund would agree to a lump-sum settlement only when fiscally advantageous, the inability to exercise that option is likely to have an adverse impact on the State Fund. Since lump-sum settlements may not be discounted, the adverse impact is probably minor.

The Department of Labor may experience a reduction in workload at some future date. Insufficient information exists to determine whether continuation of the active status of claims otherwise settled would create an equal amount of workload.

*David Lewis* 2-1-93  
DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

*Stella Jean Hansen* 2/1/93  
STELLA JEAN HANSEN, PRIMARY SPONSOR DATE

Fiscal Note for HB0347, as introduced

**HB 347**