

House Research Act Summary

CHAPTER: 447

SESSION: 2000 Regular Session

TOPIC: Workers' compensation

Date: May 3, 2000

Analyst: Linda Holmes, 651-296-5059

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This is the bill offered by the workers' compensation advisory council. Many of the provisions of this year's bill are the same as those that were in the council's bill from last year, which was eventually tabled in the House. Among other changes, the bill increases benefits and reduces assessments on employers, paying for these changes partly through a transfer of funds from the assigned risk plan (an insurance plan for employers who have difficulty getting coverage in the private market) to the special compensation fund.

Section

- 1 **Daily wage.** Provides that if vacation and holiday pay are to be included in the daily wage calculation, then the corresponding number of vacation days and holidays are to be included in the calculation. Previously, vacation and holiday dollars were added into the calculation but the corresponding number of days were not.
- 2 **Employee.** Provides that volunteers working for nonprofit social services groups are not employees for workers' compensation purposes. Under current law, volunteers that work for local social services agencies that provide social services and financial assistance for public child welfare programs are considered "employees" for purposes of workers' compensation.
- 3 **Average weekly wage.** Makes terminology changes that conform with changes in the reemployment insurance statutes.
- 4-8 **Third party liability.** These sections codify existing case law regarding third-party liability. The case at issue held that a third party has a right of contribution against a liable employer, limited in amount by the employer's recovery of workers' compensation benefits paid and payable. Also, language is added to provide that an employer has the right to waive workers' compensation subrogation to avoid any new money exposure beyond its workers' compensation obligation. Finally, language is being added that will allow an employer, who was required to

pay workers' compensation benefits as a result of the negligence of a third party, the right to recover all benefits it has had to pay because of that negligence regardless of whether those benefits were recoverable at common law or not.

- 9 **Limitation of fees.** This section adds language that will automatically allow insurers to release to employees funds that are being held for attorney fees in some circumstances.
- 10 **Temporary total disability.** This section makes three basic changes to temporary total disability benefit provisions. First, the minimum and maximum weekly amounts have been increased. The minimum is increased from \$104 to \$130, and the maximum from \$615 to \$750. Second, the one-year requirement for recommencement of TTD after a layoff. Under current law, TTD can be recommenced after a layoff if 90 days after maximum medical improvement have not elapsed and the layoff occurs within a year of return to work. The new language removes the one-year requirement. Third, language is added that requires the employer or insurer to notify the employee in advance of the approach of the 104-week limit on TTD benefits.
- 11 **Permanent partial disability.** Makes three changes to permanent partial disability compensation provisions. First, the impairment ratings are altered to provide smaller increments of disability for injuries of less than 25% disability. Second, the corresponding dollar amounts payable are increased. Third, PPD will be able to be paid in a lump sum as was the case prior to 1995.
- 12 **Cessation of benefits.** Adds a retirement presumption for cessation of temporary total disability payments for certain public employees based on receipt of certain other retirement benefits.
- 13 **Review panel.** Clarifies provisions relating to the rehabilitation review panel.
- 14 **Retraining; compensation.** Extends the 104-week time limit on requests for retraining by one year. An employee will now have 156 weeks in which to request retraining.
- 15 **Request for hearing.** Makes changes in conformity with 1998 transfer of settlement judges from the department of labor and industry to the office of administrative hearings.
- 16 **Payments; to whom made.** Provides that dependency benefits in the event of an employee's death must be no less than \$60,000. This is related to the new language in sections 18 and 26 providing for a \$60,000 payment to the estate of a deceased employee with no dependents. Without this provision, an employee with no dependents might receive more of a benefit to his estate than would an employee with dependents.
- 17 **Burial expense.** This section doubles the burial expenses provided under the law from \$7,500 to \$15,000.
- 18 **Payments to estate; death of employee.** This new section requires a payment of \$60,000 to the estate of an employee killed at work who has no dependents.
- 19 **Payments to fund; injury.** Changes the assessment reporting date for workers' compensation benefits paid to coincide with other reporting dates.
- 20 **Time of injury.** Eliminates distinction between pre-1971 and post-1971 injuries for assessment purposes.
- 21 **Initial report, written report.** Requires an employer to provide an employee, at the time an injury is first reported, with an information sheet about the workers' compensation system to be provided by the department.
- 22 **Alternative cost allocation account.** Changes the way costs are allocated to fund state agencies' workers' compensation costs. The changes are administrative in nature and do not impact benefit amounts.
- 23 **Legislative findings.** Findings include the fact that the assigned risk plan has a surplus from

investments and other sources, and that the legislature intends to use part of this surplus to reduce the obligations of the second injury and supplemental benefit programs.

- 24 **Assigned risk plan surplus transfer.** Requires the commissioner of commerce to direct the transfer of \$325,000,000 to a separate account within the special compensation fund by July 10, 2000. This money is to be used to pay future liabilities scheduled to be paid out of the fund. The section then requires at least a 30 percent reduction in the assessment paid by employers to the fund.
- 25 **Nonseverability.** This section links the payment into the special compensation fund, the benefit changes, and the assessment reduction in the bill in an attempt to ensure that either all of these occur, or none of them occur.
- 26 **No claim of right.** Relates to the transfer required by section 24.
- 27 **Transfer priority.** Requires the transfer provided for in section 24 to be made before any other transfers that are directed out of the assigned risk plan by the 2000 legislature.
- 28 **Repealer.** Repeals language requiring an employer to pay \$25,000 to the special compensation fund when an employee is killed on the job. This language is basically replaced by the language of section 18 providing for the payment to the family.
- 29 **Effective dates.**