

HCS HB 1397 -- WORKERS' COMPENSATION

SPONSOR: Hunter (Wilson, 130)

COMMITTEE ACTION: Voted "do pass" by the Committee on Workforce Development and Workplace Safety by a vote of 9 to 6.

This substitute makes changes to the laws regarding workers' compensation. The substitute:

- (1) Requires that any member appointed or serving on the Labor and Industrial Relations Commission receive Senate confirmation within 30 days after the Senate convenes for regular session or immediately resign from the commission;
- (2) Redefines "accident" to mean a specific, identifiable, traumatic event during a single work shift;
- (3) Defines "dominant factor" to mean the accident is the prevailing factor in relation to any other factors contributing to the resulting medical condition;
- (4) Requires that an accident injury be compensable only if the accident was the dominant factor in causing the resulting medical condition;
- (5) Codifies that Missouri does not apply the Positional Risk Analysis or Positional Risk Doctrine;
- (6) Excludes as compensable any personal health condition manifested during employment in which the accident was not the dominant factor resulting in the need for medical treatment;
- (7) Excludes as compensable an injury resulting directly or indirectly from idiopathic causes;
- (8) Requires that a cardiovascular, pulmonary, respiratory, or other disease or cerebrovascular accident or myocardial infarction suffered by a worker is an injury only if the accident is the dominant factor in causing the resulting medical condition;
- (9) Excludes as compensable any aggravation of a pre-existing condition, except that the injury causes increased permanent disability;
- (10) Excludes as compensable an injury sustained in a company vehicle while in route to or from work;
- (11) Requires that an occupational disease be compensable only

if occupational exposure was the dominant factor resulting in the condition or disability, rather than a substantial factor;

(12) Requires that if the exposure to repetitive motion which is found to cause the injury is for a period of less than three months and exposure to repetitive motion with a prior employer was the dominant factor in causing the injury, the prior employer is liable for the occupational disease;

(13) Requires that a voluntary settlement be approved as long as the employee is not coerced or subjected to fraud and understands the terms of the agreement;

(14) Requires that noncompliance with a temporary or partial award of compensation may result in the doubling of the amount of the award;

(15) Allows an employee to opt out of workers' compensation benefits for religious reasons, provided the employee signs a waiver agreeing not to take future civil action against the employer;

(16) Provides for maximum limits on attorney fees for services on behalf of an employee and that the fees are approved by the administrative law judge;

(17) Requires that an attorney found to be in violation of the maximum fee provisions make restitution of any excess fees charged plus interest;

(18) Requires that the Labor and Industrial Relations Commission and all officials within the Division of Employment Security apply an impartial standard of review when weighing evidence and resolving factual conflicts; and

(19) Increases from \$500 to \$1,000 the maximum amount of medical costs paid by the employer for an injury to an employee which cannot result in an adjustment of the employer's experience rating.

The substitute creates the Administrative Law Judge Qualifications Advisory Committee. The committee is charged with the evaluation of an administrative law judge's conduct, performance, and productivity. The committee is required to make recommendations to the Governor for the retention, suspension, removal, or additional training and education of administrative law judges. The substitute specifies requirements for the appointment, qualification, and terms of committee members.

The substitute also specifies the testing, term limits,

appointment, qualifications, work hours, continuing education requirements, and evaluation of administrative law judges.

FISCAL NOTE: Not available at time of printing.

PROPONENTS: Supporters say that the costs associated with workers' compensation insurance are a deterrent to business expansion, location, and survival in Missouri. The liberal interpretation of a compensable injury, administrative law judge awards, attorney fees, and unnecessary attorney involvement in claim settlements are cost drivers for employers' insurance costs. A simple system, designed to pay for an injured employee's medical costs and time lost from work while preserving the employee's job, is out of control.

Testifying for the bill were Representative Wilson (130); Contract Freighters, Incorporated; Missouri Chamber of Commerce and Industry; Associated Industries of Missouri; National Federation of Independent Business; Missouri Insurance Coalition; Ripley County Colonial Home, Incorporated; Associated Builders and Contractors, Heart of America Chapter; Missouri Retailers Association; Missouri Grocers Association; Missouri Self-Insurers Association; and American Insurance Association.

OPPONENTS: Those who oppose the bill say that an attorney's assistance is a fundamental right of an employee, and associated fees are not responsible for the cost increases in workers' compensation insurance. Increased insurance costs are due to increased medical costs and the downturn of the national economy. Administrative law judges being subject to review by the legislative branch of government is contradictory to an employee receiving a fair and impartial judgment and the separation of powers required in the Constitution.

Testifying against the bill were Missouri Association of Trial Attorneys; Missouri Laborers; United Auto Workers; Carl Mueller; Truman E. Allen; Missouri AFL-CIO; American Federation of State, County, and Municipal Employees; Carpenters' District Council of Kansas City; Carpenters' District Council of Greater St. Louis; and Heavy Constructors Association.

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