

HB 148 -- Workers' Compensation

Sponsor: Hunter

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

- (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 "dominate 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 mental or physical condition;
- (5) Excludes as compensable any personal health condition manifested during employment in which the accident was not the dominate factor resulting in the need for medical treatment;
- (6) Excludes as compensable any injury resulting from idiopathic causes;
- (7) Requires that cardiovascular, pulmonary, respiratory, or other disease or cerebrovascular accident or myocardial infarction suffered by a worker is an injury if the accident is the dominate factor in causing the resulting medical condition;
- (8) Excludes as compensable any aggravation of a pre-existing condition, except that the injury causes increased permanent disability;
- (9) Requires that an occupational disease be compensable only if occupational exposure was the dominant factor resulting in the condition or disability;
- (10) 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;
- (11) Requires that certified peace officers exposed to certain

occupational hazards resulting in certain diseases be recognized as disabled by an occupational disease;

(12) Requires that employees failing to obey any rule or policy related to a drug-free workplace or the use of alcohol forfeit compensation and death benefits except in certain cases;

(13) States that in cases involving an employee who voluntarily used alcohol to a percentage of blood alcohol over the legal intoxication level, it will be presumed that the alcohol use was the proximate cause of any injury;

(14) Requires that a disabled employee submit to a reasonable medical examination at the request of the state if there is a second injury claim;

(15) Requires that an administrative law judge, associate legal advisor, legal advisor, or the commission approve a settlement agreement unless the agreement was found to be unjust;

(16) Requires that the Division of Workers' Compensation appoint administrative law judges with the advice and consent of the Senate;

(17) Requires that administrative law judges' terms be staggered and limited to two terms, subject to reappointment;

(18) Requires that the balance amount in the Workers' Compensation Fund be sufficient to cover 100% of the previous year's expenses. Beginning October 31, 2005, in any year in which collections from the maximum 2% tax rate are not sufficient to cover the previous year's expenses, the State Auditor is to audit the division and report the audit findings to the Speaker of the House of Representatives and the President Pro Tem of the Senate;

(19) Requires that, beginning October 31, 2005, the director of the division is to estimate the amount of benefits payable from the Second Injury Fund during the ensuing calendar year and calculate the surcharge to be imposed during the ensuing year on all workers' compensation policyholders and authorized self-insurers;

(20) Requires that, beginning January 1, 2006, the surcharge will be set and calculated against a percentage, not to exceed 3%, of the policyholder's or self-insured's net deposits that will generate 100% of the ensuing year's projected requirements less any remaining balance from the previous year;

(21) Requires that in any year in which collections from the

maximum 3% tax rate are insufficient to meet the fund balance requirements of the previous year's expenses, the State Auditor is to audit the division and report the audit findings to the Speaker of the House of Representatives and the President Pro Tem of the Senate;

(22) Requires that failure by the division director to calculate the surcharge by October 31 will result in any increase in the surcharge not becoming effective for any calendar quarter beginning less than 60 days from the date of the calculation; and

(23) Requires that the provisions of law regarding workers' compensation be impartially construed.