

DATE: June 7, 1977

COMMITTEE ACTION: 1. None
2. None
3. None

SENATE
STAFF ANALYSIS AND ECONOMIC
STATEMENT
Commerce Committee
(Brainerd)

Bill No. and Sponsor:
SB 343 Senator Glisson

Amend. or CS Attached
Subject Workmen's
Compensation

REFERENCES: Commerce

I. BILL SUMMARY:

Major rewrite of Chapter 440. Changes definitions and amends the presumption concerning intoxication. Codifies some of the division's existing rules. Prohibits "double-dipping" or receiving UC & WC benefits at the same time. Changes some procedural rules before the Judge of Industrial Claims. Provides for record on appeal and specifies who shall bear the cost of such record. Sets forth guidelines and criteria for attorneys' fees. Provides penalty for misrepresentation. Provides for 100% subrogation against third party tortfeasors. Clarifies that adjudications of WC claims do not come under A.P.A. Authorizes the formation of a WC joint underwriting plan.

II. PURPOSE:

Section 1: This is a verbatim transfer of definitions which currently appear in the Workmen's Compensation Rules of Procedure adopted by the Industrial Relations Commission in 1973. The new Workmen's Compensation Rules of Procedure, effective July 1, 1977, do not contain these definitions, the thought being that they are substantive rather than procedural. Also included is a definition of "independent" that would include a real estate salesman who is paid by commission and works without supervision.

Section 2: This section removes the presumption now in the workmen's compensation law that intoxication was not the primary cause of an employee injury. In the section of the law which deals with intoxication as a defense to a workmen's compensation claim, there is inserted a rebuttable presumption that a 0.10% blood alcohol intoxication was the primary cause of an employee injury.

Section 3: This section deals with medical reports. It codifies current rules of procedure that were thought to be more substantive than procedural.

Section 4: This section would give to the Division of Labor the authority to promulgate rules requiring an employee entitled to or claiming benefits for permanent total disability to report to the employer or carrier all earnings and social security income. The employee would also be required to authorize the release of disability information by the Social Security Administration. Failure to report earnings or authorize the release of disability information would remove employer/ carrier liability to make benefit payments. There is also a provision designed to prevent "double-dipping" or the unauthorized simultaneous collection of unemployment compensation and workmen's compensation benefits.

Section 5: This section provides that no penalty will be awarded in relation to delayed payments unless the issue of such delay is raised during the hearing before the Judge. It also provides that in cases where the proposed final settlement stipulates that there shall be no latter modification, the Judge shall cause an investigation to be made to determine if the proposed settlement is in the claimant's best interest. It also provides procedures concerning advance payments.

Section 6: This section provides for a record on appeal and requires the appellant to bear the cost of preparing the record on appeal.

Section 7: This section removes the presumption that an injury was not occasioned primarily by the intoxication of the injured employee.

Section 8: This section provides a means whereby an indigent appellant can be relieved of the obligation to bear the costs of a record of appeal.

Section 9: This section would establish guidelines for attorneys' fees based on percentages of the award, and would set forth criteria which would allow the judge to vary the award up or down from the percentage guidelines.

Section 10: This section raises the penalty for misrepresentation cases in workmen's compensation from a second degree misdemeanor to a first degree misdemeanor.

Section 11: This section changes from 50% to 100% the possible recovery of an employer or carrier for workmen's compensation benefits paid when an injured employee is successful in a suit against a third person who caused the injury.

Sections 12-15: These sections make it clear that adjudications of workmen's compensation claims do not fall within the definition of agency action for the purpose of the Administrative Procedures Act.

Section 16: The department is authorized to approve a joint underwriting plan for workmen's compensation.

III. ECONOMIC CONSIDERATIONS:

Economic Impact: YES: X _____ NO: _____

A. Economic Impact on the Public:

There would be some economic impact on both employees and employers. The strong anti-fraud provisions and the prohibition against "double-dipping" should help reduce premium rates. The exact amount of any savings is not quantifiable at this time.

B. Fiscal Impact on Implementing or Enforcing Agency:

There would be no significant impact on the implementing or enforcing agency.

IV. COMMENTS:

Technical errors: None noted.