

Montana State Legislature

Exhibit Number:

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SB8

**REVISE TERMINOLOGY AND PROCEDURE
IN WORKERS' COMPENSATION LAWS**

SPONSOR'S PACKET

SENATOR ROUSH

JANUARY 5, 2005

Prepared by

Department of Labor and Industry

Employment Relations Division

SPEAKING POINTS FOR

SENATOR ROUSH SB8

Introduction:

SB8 is the result of the work of the Economic Affairs Committee. Senate Joint Resolution No. 17 authorized a study on workers' compensation simplification and clarification.

An ad hoc working group composed of representatives from the Montana State Fund, private insurers, and self-insurers, claims adjusters, Montana Trial Lawyers' Association, the Montana AFL-CIO, Independent Insurance Agents of Montana, and the Department of Labor & Industry met over a period of 11 months to provide information and recommendations on SJR17. The working group represents many of the major stakeholders in Montana's system.

One of the outcomes resulting from the meetings was a recommendation for legislative changes to workers' compensation statutes that are redundant or in need of revision for clarity or simplification.

SB8 is one of the bills that came out of the committee. It has the support of the committee and the working group who reached consensus on recommending the changes in this bill. It's my understanding some of the stakeholders may have recommendations for amending some of the wording in the bill, but support the proposal to clarify these statutes.

CONCLUSION:

Mr. Chairman, members of the committee, there are representatives here from the Department of Labor & Industry, the State Fund, and other insurers that will provide greater detail and can answer your questions regarding the specifics of the bill.

In conclusion, I am requesting your support for SB8. Thank you.

LIST OF AD HOC WORKING GROUP:

Department of Labor & Industry:

Kevin Braun
Jerry Keck
Diana Ferriter
Keith Messmer

Self-Insurers – Plan 1:

Shawn Bubb

Private Insurers – Plan 2:

Jacqueline Lenmark
Larry Jones

Montana State Fund – Plan 3:

Nancy Butler

Claims Adjusters:

Senator Cocchiarella
Mike Marsh
Susan Lake
Joyce Blatherwick

Claimant's Attorneys:

Dean Blackaby
Dick Martin

Montana Trial Lawyers' Association:

Al Smith

Union Representatives:

Jerry Driscoll
Don Judge

Independent Insurance Agents:

Roger McGlenn

SB8 SUMMARY

Section 1 – 39-71-105 – Updates the public policy to reflect current terminology in the benefit provisions and clarify that repetitive injury claims are covered in the system.

Section 2 – 39-71-107 and Section 7 – 39-71-608 – Moves the language from 39-71-107 into section 39-71-608. Both sections relate to payments under a reservation of rights.

Section 3 – 39-71-201 – Strikes the reference to 39-71-308. 39-71-308 is repealed in this bill.

Section 4 – 39-71-204 - Moves the language from 39-71-318 into this section so hearing procedures before the department are in the same section of law.

Section 5 – 39-71-307 – Clarifies when and to whom reports of accidents are filed by the employer and when insurers are required to report them to the department. Clarifies the provisions for when and to whom penalties may be assessed by the department for failure to report injuries.

Section 6 – 39-71-407 – Clarifies which insurer pays benefits when there is a dispute between insurers over who's liable for benefits and there's no dispute the injury is work related. Intended to prevent delays in benefit payments to claimants.

Section 7 – 39-71-608 – Moves the language from 39-71-107 into this section. Both sections relate to payments under a reservation of rights.

Section 8 – 39-71-703 – Eliminates the department from approving lump sum payments of impairment awards when payment of the award does not constitute settlement of the claim. Intended to prevent delays in benefit payments to claimants.

Section 9 – 39-71-741 – Eliminates the department from approving lump sum advances or accrued benefits when the lump sum payments do not constitute settlement of the claim. Also clarifies that medical benefits may be closed on an accepted claim when there's a dispute over the liability of medical benefits. Intended to prevent delays in benefit payments to claimants and provide for settlement of medical benefits.

Section 10 – 39-71-1006 – Provides for lump sum payments of rehabilitation benefits when the rehabilitation plan provides job placement services or there is a dispute over rehabilitation benefits. Benefits paid in accordance with a retraining plan must be paid biweekly to assist with successful completion of the plan.

Section 11 – Repealer:

39-71-302 – Explains what forms of remuneration are included in computing payroll – definition of wages -Section 39-71-123- explains what's included in computing payroll

39-71-303 – Work paid for in property other than money - definition of wages –Section 39-71-123- includes property other than money

39-71-308 – Neglect or refusal of public corporation to file payroll reports with the State Fund - arbitrary assessment by department – applies to State Fund only and State Fund agrees should be repealed. This section dates back to when the "Division of Workers' Compensation" existed and included the State Fund.

39-71-318 – Provisions for holding a hearing before the department -moved to 39-71-204 so provisions for hearings are found in same section.

Section 12 – Effective date – A July 1, 2005, effective date has historically been used in workers' compensation legislation to establish that the changes apply to dates of injuries or OD's contracted on or after the effective date and result in consistency with claims handling.