



Senate

General Assembly

File No. 233

January Session, 2001

Substitute Senate Bill No. 1389

Senate, April 11, 2001

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING DEPENDENTS OF DECEASED WORKERS' COMPENSATION RECIPIENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-306 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) Compensation shall be paid to dependents on account of death
4 resulting from an accident arising out of and in the course of
5 employment or from an occupational disease as follows:

6 (1) Four thousand dollars shall be paid for burial expenses in any
7 case [where] in which the employee died on or after October 1, 1988. If
8 there is no one wholly or partially dependent upon the deceased
9 employee, the burial expenses of four thousand dollars shall be paid to
10 the person who assumes the responsibility of paying the funeral
11 expenses.

12 (2) To those wholly dependent upon the deceased employee at the
13 date of [his] the deceased employee's injury, a weekly compensation
14 equal to seventy-five per cent of the average weekly earnings of the
15 deceased calculated pursuant to section 31-310, after such earnings
16 have been reduced by any deduction for federal or state taxes, or both,
17 and for the federal Insurance Contributions Act made from such
18 employee's total wages received during the period of calculation of the
19 employee's average weekly wage pursuant to said section 31-310, as of
20 the date of the injury but not more than the maximum weekly
21 compensation rate set forth in section 31-309 for the year in which the
22 injury occurred or less than twenty dollars weekly. (A) The weekly
23 compensation rate of each dependent entitled to receive compensation
24 under this section as a result of death arising from a compensable
25 injury occurring on or after October 1, 1977, shall be adjusted annually
26 as provided in this subdivision as of the following October first, and
27 each subsequent October first, to provide the dependent with a cost-of-
28 living adjustment in [his] the dependent's weekly compensation rate as
29 determined as of the date of the injury under section 31-309. If the
30 maximum weekly compensation rate, as determined under the
31 provisions of said section 31-309, to be effective as of any October first
32 following the date of the injury, is greater than the maximum weekly
33 compensation rate prevailing at the date of the injury, the weekly
34 compensation rate which the injured employee was entitled to receive
35 at the date of the injury or October 1, 1990, whichever is later, shall be
36 increased by the percentage of the increase in the maximum weekly
37 compensation rate required by the provisions of said section 31-309
38 from the date of the injury or October 1, 1990, whichever is later, to
39 such October first. The cost-of-living increases provided under this
40 subdivision shall be paid by the employer without any order or award
41 from the commissioner. The adjustments shall apply to each payment
42 made in the next succeeding twelve-month period commencing with
43 the October first next succeeding the date of the injury. With respect to
44 any dependent receiving benefits on October 1, 1997, with respect to

45 any injury occurring on or after July 1, 1993, and before October 1,
46 1997, such benefit shall be recalculated to October 1, 1997, as if such
47 benefits had been subject to recalculation annually under this
48 subparagraph. The difference between the amount of any benefits
49 [which] that would have been paid to such dependent if such benefits
50 had been subject to such recalculation and the actual amount of
51 benefits paid during the period between such injury and such
52 recalculation shall be paid to the dependent not later than December 1,
53 1997, in a lump-sum payment. The employer or [his] its insurer shall
54 be reimbursed by the Second Injury Fund, as provided in section 31-
55 354, for adjustments, including lump-sum payments, payable under
56 this subparagraph for deaths from compensable injuries occurring on
57 or after July 1, 1993, and before October 1, 1997, upon presentation of
58 any vouchers and information that the Treasurer shall require. (B) The
59 weekly compensation rate of each dependent entitled to receive
60 compensation under this section as a result of death arising from a
61 compensable injury occurring on or before September 30, 1977, shall be
62 adjusted as of October 1, 1977, and October 1, 1980, and thereafter, as
63 provided in this subdivision to provide the dependent with partial
64 cost-of-living adjustments in [his] the dependent's weekly
65 compensation rate. As of October 1, 1977, the weekly compensation
66 rate paid prior to October 1, 1977, to the dependent shall be increased
67 by twenty-five per cent. The partial cost-of-living adjustment provided
68 under this subdivision shall be paid by the employer without any
69 order or award from the commissioner. In addition, on each October
70 first, the weekly compensation rate of each dependent as of October 1,
71 1990, shall be increased by the percentage of the increase in the
72 maximum compensation rate over the maximum compensation rate of
73 October 1, 1990, as determined under the provisions of section 31-309
74 existing on October 1, 1977. The cost of the adjustments shall be paid
75 by the employer or [his] its insurance carrier who shall be reimbursed
76 [therefor] for such cost from the Second Injury Fund as provided in
77 section 31-354 upon presentation of any vouchers and information that

78 the Treasurer shall require.

79 (3) If the surviving spouse is the sole presumptive dependent,
80 compensation shall be paid until death or remarriage.

81 (4) If there is a presumptive dependent spouse surviving and also
82 one or more presumptive dependent children, all of which children are
83 either children of the surviving spouse or are living with the surviving
84 spouse, the entire compensation shall be paid to the surviving spouse
85 in the same manner and for the same period as if the surviving spouse
86 were the sole dependent. If, however, any of the presumptive
87 dependent children are neither children of the surviving spouse nor
88 living with the surviving spouse, the compensation shall be divided
89 into as many parts as there are presumptive dependents. The shares of
90 any children having a presumptive dependent parent shall be added to
91 the share of the parent and shall be paid to the parent. The share of any
92 dependent child not having a surviving dependent parent shall be
93 paid to the father or mother of the child with whom the child may be
94 living, or to the legal guardian of the child, or to any other person, for
95 the benefit of the child, as the commissioner may direct.

96 (5) If the compensation being paid to the surviving presumptive
97 dependent spouse terminates for any reason, or if there is no surviving
98 presumptive dependent spouse at the time of the death of the
99 employee, but there is at either time one or more presumptive
100 dependent children, the compensation shall be paid to the children as a
101 class, each child sharing equally with the others. Each child shall
102 receive compensation until the child reaches the age of eighteen or dies
103 before reaching age eighteen, provided the child shall continue to
104 receive compensation up to the attainment of the age of twenty-two if
105 unmarried and a full-time student, except any child who has attained
106 the age of twenty-two while a full-time student but has not completed
107 the requirements for, or received, a degree from a postsecondary
108 educational institution shall be deemed not to have attained age

109 twenty-two until the first day of the first month following the end of
110 the quarter or semester in which [he] the child is enrolled at the time,
111 or if [he] the child is not enrolled in a quarter or semester system, until
112 the first day of the first month following the completion of the course
113 in which [he] the child is enrolled or until the first day of the third
114 month beginning after such time, whichever occurs first. When a
115 child's participation ceases, [his] such child's share shall be divided
116 among the remaining eligible dependent children, provided if any
117 child, when [he] the child reaches the age of eighteen years, is
118 physically or mentally incapacitated from earning, [his] the child's
119 right to compensation shall not terminate but shall continue for the full
120 period of incapacity.

121 (6) In all cases where there are no presumptive dependents, but
122 where there are one or more persons wholly dependent in fact, the
123 compensation in case of death shall be divided according to the
124 relative degree of their dependence. Compensation payable under this
125 subdivision shall be paid for not more than three hundred and twelve
126 weeks from the date of the death of the employee. The compensation,
127 if paid to those wholly dependent in fact, shall be paid at the full
128 compensation rate. The compensation, if paid to those partially
129 dependent in fact upon the deceased employee as of the date of the
130 injury, shall not, in total, be more than the full compensation rate nor
131 less than twenty dollars weekly, nor, if the average weekly sum
132 contributed by the deceased at the date of the injury to those partially
133 dependent in fact is more than twenty dollars weekly, not more than
134 the sum so contributed.

135 (7) When the sole presumptive dependents are, at the time of the
136 injury, nonresident aliens and the deceased has in this state some
137 person or persons who are dependent in fact, the commissioner may in
138 [his] the commissioner's discretion equitably apportion the sums
139 payable as compensation to the dependents.

140 (b) The dependents of any deceased employee who was injured on
141 or after January 1, 1974, and who [died not later than November 1,
142 1991,] subsequently dies shall be paid compensation on account of the
143 death retroactively to the date of the employee's death. The cost of the
144 payment or adjustment shall be paid by the employer or [his] its
145 insurance carrier who shall be reimbursed [therefor] for such cost from
146 the Second Injury Fund as provided in section 31-354 upon
147 presentation of any vouchers and information that the Treasurer shall
148 require.

149 (c) (1) The dependents of any deceased employee who was injured
150 between January 1, 1952, and December 31, 1973, and who
151 subsequently dies, shall be paid compensation on account of the death
152 retroactively to the date of the employee's death. The cost of the
153 payment or adjustment shall be paid by the employer or its insurance
154 carrier who shall be reimbursed for such cost from the Second Injury
155 Fund as provided in section 31-354 upon presentation of any vouchers
156 and information that the Treasurer shall require.

157 (2) The dependents of any deceased employee who was injured
158 before January 1, 1952, and who died on or before October 1, 1991,
159 shall be paid compensation on account of the death retroactively to the
160 date of the employee's death. The cost of the payment or adjustment
161 shall be paid by the employer or its insurance carrier who shall be
162 reimbursed for such cost from the Second Injury Fund as provided in
163 section 31-354 upon presentation of any vouchers and information that
164 the Treasurer shall require.

165 [(c)] (d) The dependents of any deceased employee who was injured
166 in an accident arising out of and in the course of employment before
167 January 1, 1952, and who died, as a result of those injuries, after
168 October 1, 1991, shall be paid compensation, under the provisions of
169 this section, effective as of the date of death of any such employee.
170 Notwithstanding the provisions of subsection (a) of this section, the

171 weekly compensation rate for such dependents shall equal the amount
172 of compensation the injured employee was receiving prior to death
173 pursuant to section 31-307. Such weekly compensation rate shall
174 hereafter be adjusted in accordance with the provisions of subsection
175 (a) of this section. The cost of such payment or adjustment shall be
176 paid by the employer or the insurance carrier of such employer who
177 shall be reimbursed [therefor] for such cost from the Second Injury
178 Fund provided for in section 31-354.

179 Sec. 2. This act shall take effect from its passage.

LAB JOINT FAVORABLE SUBST.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Indeterminate Cost, (Second Injury Fund, General Fund, and Special Transportation Fund)

Affected Agencies: Department of Administrative Services - Workers' Compensation Claims, State Treasurer - Second Injury Fund, Various State Agencies

Municipal Impact: Indeterminate Cost

Explanation

State Impact:

This bill would result in additional costs to the state that cannot be determined at this time, but that are not anticipated to be significant, and in additional costs to the state's Second Injury Fund estimated at between \$313,000 and \$1.3 million per year. The bill eliminates the waiting period for dependants in workers' compensation cases where the injured worker's death was related to the compensable injury, in all such cases where the original injury occurred between January 1, 1953 and September 30, 1978. Few such cases are anticipated. The estimate for the Second Injury Fund is based on 15 cases.

Municipal Impact:

This bill would result in additional costs to municipalities that

cannot be determined at this time, but that are not anticipated to be significant. Few such cases are anticipated.

OLR Bill Analysis

sSB 1389

AN ACT CONCERNING DEPENDENTS OF DECEASED WORKERS' COMPENSATION RECIPIENTS.**SUMMARY:**

This bill eliminates the "waiting period" for all dependents of deceased workers' compensation recipients. Previously, the waiting period was eliminated for most such dependents.

It requires that benefits due to dependents because of the elimination of the "waiting period" be paid retroactively to the date of the worker's death. It also requires the Second Injury Fund to reimburse employers or insurers for such benefits.

EFFECTIVE DATE: Upon passage

WAITING PERIOD

Before October 1, 1978, if a workers' compensation recipient died more than two years after the date of his injury or the first manifestation of an occupational disease, his dependents had to wait a period equal to the time he received compensation before they could receive death benefits. For example, if a worker received total disability benefits for five years and then died, his dependents had to wait five years to receive death benefits.

The legislature repealed this "waiting period" on October 1, 1978. But, since a workers' compensation claimant's substantive rights to benefits are governed by the law as it existed on the date of his injury, the repeal affected only those injured on or after October 1, 1978.

Subsequently, the law was amended to make the repeal retroactive for dependents of workers injured (1) on or after January 1, 1974, and who died not later than November 1, 1991 and (2) before January 1, 1952, and who died after October 1, 1991.

The bill eliminates the waiting period for dependents of deceased workers injured (1) before January 1, 1952, and who died on or before October 1, 1991; (2) between January 1, 1952 and December 31, 1973 (regardless of when they died); and (3) between January 1, 1974 and September 30, 1978, and who died after November 1, 1991.

BACKGROUND

Second Injury Fund

The Second Injury Fund is a state-run workers' compensation fund financed by state employers and operated by the state treasurer. Among other things, the fund pays or contributes to workers' compensation benefits for workers with preexisting disabilities who were reinjured prior to July 1, 1995, whose employers are uninsured, or who worked more than one job when they were injured.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 14 Nay 0