

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 587

Manufacturing and Labor Committee Substitute Adopted 5/24/93

Select Committee on Senate Bill 906 Committee Substitute Adopted 7/8/93

Short Title: Workers' Compensation Study Commission.

(Public)

Sponsors:

Referred to: Appropriations.

March 29, 1993

A BILL TO BE ENTITLED

1 AN ACT TO CREATE THE WORKERS' COMPENSATION STUDY
2 COMMISSION.
3

4 The General Assembly of North Carolina enacts:

5 Section 1. The Workers' Compensation Study Commission is created. The
6 Commission shall consist of 12 members: six Senators appointed by the President Pro
7 Tempore of the Senate, and six Representatives appointed by the Speaker of the House
8 of Representatives. These appointments shall be made within seven days of the
9 effective date of this act. The Commission shall conduct its first meeting within 15 days
10 of the Speaker and President Pro Tempore making the appointments.

11 Sec. 2. The President Pro Tempore of the Senate shall designate one Senator
12 as cochair, and the Speaker of the House of Representatives shall designate one
13 Representative as cochair.

14 Sec. 3. The Commission shall conduct a balanced and comprehensive study
15 of the current workers' compensation system in North Carolina. The Commission shall
16 consider both the current benefits to employees under the Workers' Compensation Act
17 and the cost to employers of providing these benefits. The Commission shall consider:

- 18 (1) The impact on employees and employers of the amendment to G.S. 97-
19 2(6), pursuant to Chapter 833 of the 1983 Session Laws, allowing
20 compensation for a back injury that is a direct result of a specific
21 traumatic incident;

- 1 (2) The impact on employees and employers of the line of cases that
2 include *Whitley v. Columbia Lumber Mfg. Co.* 318 N.C. 89, 348
3 S.E.2d 336 (1986) and *Gupton v. Builders Transp.*, 320 N.C. 38, 357
4 S.E.2d 674 (1987);
- 5 (3) The reasons for the increase in the numbers of employees in the
6 assigned risk pool and the significance of current criteria of the
7 "difficult to place" under G.S. 58-36-1;
- 8 (4) Reasons for the rapid rise in rates for workers' compensation
9 insurance, including the medical cost component;
- 10 (5) All aspects of fraud in the workers' compensation system and possible
11 methods to prevent fraud including the fraudulent obtaining of
12 benefits, the fraudulent denial of benefits, and fraud on the part of
13 health care providers;
- 14 (6) Incentives for the establishment of employer safety programs
15 including a reduction in the annual premium rate for workers'
16 compensation insurance for employers with safety programs;
- 17 (7) Approval by the Industrial Commission of attorneys' fees for both the
18 plaintiff's and the defendant's counsel including limitations on the
19 amount of such fees;
- 20 (8) The inclusion of deductibles in workers' compensation insurance
21 policies;
- 22 (9) The length of time from injury to the receipt of benefits;
- 23 (10) The pooling of small employers for the purchase of workers'
24 compensation insurance;
- 25 (11) The issue of physician selection;
- 26 (12) Allowing an employee who claims discrimination resulting from the
27 filing of a workers' compensation claim to initiate a lawsuit without
28 first filing for mediation with the Commissioner of Labor;
- 29 (13) The efficiency of the Industrial Commission's work practices and
30 procedures, organizational structure, management practices, staffing
31 levels, and the effectiveness of the Commission's medical cost analysis
32 methodology;
- 33 (14) The implications of *Hylar v. GTE Products Company* and *American*
34 *Motorists Insurance Company*, 333 N.C. 258 (1993) including the
35 possible implementation of a certain time period following the last
36 payment of medical compensation during which an injured employee
37 may make application for additional medical compensation;
- 38 (15) Changes to the Second Injury Fund including allowing an employer to
39 recoup certain payments made to an injured employee when the
40 employee's injuries were significantly caused or contributed to by a
41 prior compensable injury; and
- 42 (16) Any other workers' compensation issues the Commission determines
43 are worthy of its consideration.

1 Sec. 4. The Commission shall submit a report of its findings and
2 recommendations to the General Assembly on or before the first day of the 1993
3 Session of the General Assembly (1994 Regular Session) by filing the report with the
4 President Pro Tempore of the Senate and the Speaker of the House of Representatives.
5 Upon filing its report, the Commission shall terminate.

6 Sec. 5. The Commission, while in the discharge of official duties, may
7 exercise all the powers provided for under the provisions of G.S. 120-19, and G.S. 120-
8 19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call
9 of the cochairs. The Commission may meet in the Legislative Building or the
10 Legislative Office Building.

11 Sec. 6. Members of the Commission shall receive subsistence and travel
12 expenses at the rates set forth in G.S. 120-3.1.

13 Sec. 7. The Legislative Services Commission, through the Legislative
14 Administrative Officer, shall assign professional staff to assist in the work of the
15 Commission. The House of Representatives' and the Senate's Supervisors of Clerks
16 shall assign clerical staff to the Commission, upon the direction of the Legislative
17 Services Commission. The expenses relating to clerical employees shall be borne by
18 the Commission.

19 Sec. 8. When a vacancy occurs in the membership of the Commission, the
20 vacancy shall be filled by the same appointing officer who made the initial appointment.

21 Sec. 9. All State departments and agencies and local governments and their
22 subdivisions shall furnish the Commission with any information in their possession or
23 available to them.

24 Sec. 10. The Commission shall use any funds, not to exceed fifteen thousand
25 dollars (\$15,000), that were appropriated to the General Assembly for the 1992-93 fiscal
26 year and that remain available for the expenses of the Workers' Compensation Study
27 Commission. There is appropriated from the General Fund to the General Assembly the
28 sum of twenty-five thousand dollars (\$25,000) for the 1993-94 fiscal year for the
29 expenses of the Workers' Compensation Study Commission.

30 Sec. 11. This act is effective upon ratification.