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ATTORNEYS AT LAW

LEGISLATIVE UPDATE - HB 805 FAILS IN SENATE

HOUSE BILL 805 (HB 805)

The 93rd General Assembly reconvened on January 10 and 11, 2005. No action was taken on House Bill 805 (HB 805). The bill is now dead.

The 94th General Assembly will be sworn in and convene the 2005 spring legislative session on January 12, 2005. It is possible that proponents of HB 805 will seek to have the bill introduced once again in the Spring session.

HB 805 proposed 35 changes to the Illinois Workers' Compensation Act. Despite numerous amendments to the bill, proponents were unable to secure passage of the measure. Extraordinary efforts were undertaken by a host of opponents including: Illinois State Chamber of Commerce, Illinois Municipal League, Illinois State Medical Society, individual businesses, insurance and construction trade associations and the City of Chicago. These efforts helped to insure that HB 805 did not have the necessary votes.

HB 805 contained numerous costly provisions for Illinois employers:

- Permanent Partial Disability (PPD) Rate Increase

Under the terms of HB 805 the PPD rate would have increased to 66-2/3% of average weekly wage (from 60%). Additionally, the bill proposed including overtime wages in the calculation of average weekly wage and set a higher minimum PPD rate equal to 66-2/3% of the federal minimum wage multiplied by 40 hours per week.

- 8(d) (1) (Wage Loss)

In addition to the increased exposure associated with the higher permanency rate, claims for "wage loss" under Section 8(d) (1) of the Illinois Workers' Compensation Act (Act) would have increased significantly. This amendment doubled the "wage loss" award for those employees earning high wages.

- Increased Penalty Exposure

The Illinois Workers' Compensation Act presently provides for penalties for unreasonable or vexatious conduct on the part of employers. Penalty provisions presently can be assessed at a rate of \$10.00 per day with a total cap on penalties of \$2,500.00. Under the terms of HB 805, penalties would have increased to \$30.00 per day with a total cap of \$10,000.00.

- Medical Fee Schedule

HB 805 proposed abolishing balanced medical billing in the workers' compensation setting and establishes a medical fee schedule allowing

employers to pay 90% of the 80th percentile of the usual and customary medical fees. However, opponents found that little or no cost reduction was actually provided to a majority of Illinois employers under the terms of this bill. Furthermore, any alleged cost savings were not sufficient to offset the substantial increase in benefit costs contained in other sections of the bill.

The willingness of employers to contact legislators and express their extreme opposition to HB 805 prevented this costly measure from becoming law. Thank you for your assistance in defeating this bill.

Frank J. Wiedner, Editor