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## **Workers' Compensation Amendments to Remain at Forefront of Legislative Gridlock in Illinois**

As a stalemate between Republican Gov. Bruce Rauner and the Democratic-controlled General Assembly heads into its fourth week, with no end in sight, legislation to amend the Illinois Workers' Compensation Act remains central to the ongoing dispute.

Since his inauguration as governor in January, Gov. Rauner has made workers' compensation reform a key element of his legislative agenda, known as the "Turnaround Agenda." As part of this agenda, Gov. Rauner has prioritized four amendments to the Workers' Compensation Act:

1. Establishing a "causation" standard that requires employees to demonstrate that a workplace incident is a "major contributing cause" of a worker's injury. To satisfy this standard, the employee would need to demonstrate that the accident is at least 50 percent responsible for the injury compared to all other causes;
2. Requiring the Illinois Workers' Compensation Commission to utilize the American Medical Association guidelines in evaluating a worker's disability and allowing the Commission to review an independent medical examination as part of determining an award;
3. Limiting the scope of which employees are considered to be "traveling employees" so that an employee would only be able to recover a workers' compensation award if the travel was necessary for the performance of job duties; and
4. Reducing the medical fee schedule by 30 percent for all services except evaluation and management and physical medicine.

According to the Rauner Administration, these changes could lead to significant cost savings for Illinois employers. Critics

contend, however, that the changes will severely limit recoveries for injured workers and do little to help employers reduce workers' compensation costs.

Unsurprisingly, the Governor's proposed amendments have been met with resistance from Democrats in the General Assembly. After repeatedly urging the Governor to prepare his proposal as legislation that could be debated in the General Assembly, in early May, Speaker Michael Madigan convened the Illinois House of Representatives in a rare Committee of the Whole to consider the impact of the Governor's proposed changes on injured workers. Over the course of an over eight-hour hearing, members of the General Assembly heard testimony from injured workers, their families, experts on workers compensation laws in Illinois and Indiana, labor representatives, and representatives of the business, medical, and insurance communities. Shortly after the hearing, Speaker Madigan announced that the House would begin voting on amendments filed by Democrats that purported to represent the Governor's proposals.

House Democrats filed a total of eight amendments to House Bill 1287. Each amendment was debated and voted on separately. During the debates, Republican members of the House sharply criticized their Democratic counterparts for tactics intended to embarrass the Governor and forestall substantive negotiations on workers' compensation reform. Republicans refused to participate in the votes, and voted "present" on the various amendments.

Ultimately, on a strictly partisan roll call, the House adopted a number of the amendments and passed House Bill 1287. As it passed the House, House Bill 1287 largely targets insurance companies, while leaving in place existing provisions in the law regarding the medical fee schedule, causation, and standards for evaluating disabilities. The bill provides that insurers who offer workers' compensation policies in Illinois will need to submit rates to the Illinois Department of Insurance for approval and will allow for the refund of excess premiums upon a determination that rates are excessively high. The bill also limits the scope of the traveling employee doctrine, allows an employer to seek recovery from an employee's prior employers for certain repetitive stress injuries, provides incentives for employers who establish safety programs, and establishes a Workers' Compensation Premium Rates Task Force. Now that it has passed the House, House Bill 1287 will be sent to the Senate for consideration.

While these amendments were being debated in the House, Gov. Rauner finally acceded to pressure from the Speaker and the Senate President and prepared his workers' compensation proposals in legislative form. The Governor's proposal was filed by Senate Minority Leader Christine Radogno as an amendment to Senate Bill 994. The amendment was assigned to the Senate Judiciary Committee where it failed on a partisan roll call.

As evidenced by the Democrats' unanimous rejection of the amendments representing the Governor's proposal, and the Republicans voting against the Democrats' amendments to House Bill 1287, it is clear that the two sides remain far apart on the issue. Nevertheless, Gov. Rauner continues to make reform to the workers' compensation program a key component of his legislative agenda for the summer. He has stated publicly, on numerous occasions, that he will remain unwilling to agree to many of the Democrats' budget priorities until the legislature passes his workers' compensation proposals. For their part, the Democratic leaders refuse to link budget negotiations to substantive issues such as workers' compensation. With an upcoming deadline of July 1 for the legislature to adopt a budget for the upcoming fiscal year, it is clear that both sides will be confronted with difficult concessions. Despite the gridlock that has gripped Springfield, one thing remains clear: amendments to the workers' compensation program will remain at the forefront of the political debates in Illinois.

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