



February 26, 2015

The General Assembly recessed today and will return for the 24th legislative day on Monday. To remain eligible for consideration this year, all bills must pass their House of origin by the 30th legislative day, now scheduled for Friday, March 13.

House panel approves State Board bill addressing exclusive remedy.

The House Industry and Labor today passed HB 412 without dissent, sending the measure to the Rules Committee which sets the calendar for the full House of Representatives. The bill had cleared a sub-committee earlier in the week without opposition.

Introduced by Industry and Labor Chairman Mark Hamilton, HB 412 addresses a recent Court of Appeals decision that diminished somewhat the application of the exclusive remedy provision in workers compensation. In *Pitts v. City of Atlanta*, the court held that plaintiffs could collect civil damages as well as workers compensation because a sub-contractor had breached a contract provision relating to insurance coverage. Therefore, according to the court, it was a breach of contract case and not a workers compensation case.

Chairman Hamilton, in presenting the bill, noted that it was belt and suspenders approach to clarify that the exclusive remedy is just that -- the *exclusive* remedy for work-related injury. The pertinent paragraph in HB 412 was included in last week's edition of the GWCA newsletter.

HB 412 was developed by the Legislative Committee of the Advisory Council to the State Board of Workers Compensation. Although claimant lawyers on the Council backtracked in their support of the measure, the State Board proceeded with the support of GWCA and others on the Council.

In addition to the exclusive remedy provision, HB 412 would increase the maximum weekly income benefit from \$525 to \$550. It would also increase the death benefit from \$150,000 to \$220,000.

HB 412 would also move the sunset date for the Subsequent Injury Trust Fund from 2020 to 2023, and move oversight at that time from the State Board to the Department of

Insurance. It would also allow the SITF to continue assessments at the current rate to avoid a shortfall in reserves.

Occupational disease bills likely headed to Advisory Council.

Chairman Hamilton also announced this week that there will be a joint meeting of his House Industry and Labor Committee with the Senate Insurance and Labor Committee regarding other workers compensation bills. The purpose of the meeting will be to acquaint new committee members with the work of the Advisory Council to the State Board of Workers Compensation. As a result, the two pending occupational disease bills and a premium credit bill will likely be held this year, giving the Advisory Council time to make recommendations.

SB 29 and HB 216 would provide that "there shall be a rebuttable presumption that any firefighter's occupational disease was contracted in the line of duty." The bills define occupational disease as hypertension, heart disease, respiratory disease, and in some cases, cancer. GWCA contends that these diseases are often the result of genetics, aging, or life style, and should not be covered by workers compensation unless they can be determined to be job-related.. Although these bills are limited to fire-fighters, expansion to private sector jobs would be the next "logical" step.

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