Overview

This bill changes various provisions related to the workers' compensation system. Issues include the treatment of holiday pay, third party liability provisions, lump sum payment of permanent partial disability compensation, recommencement of temporary total disability compensation, the timing of an employee request for retraining, and a new first report of injury form. Additionally, a new provision provides that a $25,000 payment from the employer in the case of the death of an employee who does not have dependents will be paid to the employee's estate. The requirement of a $25,000 payment to the special compensation fund under those circumstances is eliminated.

Section

1 Daily wage. Provides that holiday pay and vacation pay are part of a worker's wages for the purposes of determining benefit levels.

325 Third party liability. These sections all relate to the third party liability provisions of the workers' compensation statutes, which govern the way that payments are handled when not only is an employer liable for workers' compensation benefits, but a third party is also liable for the injury. Generally, these sections address the employer's ability to recover some part of what it pays to the employee from the third party, and provides that the recovery is available regardless of whether the benefits paid by the employer are recoverable by the employee or the employee's dependents by statute or common law.

6 Right of contribution. This section allows a third party who is liable to the employee for the employee's injury to recover contribution from the employer based on fault when the employer is also at fault for the injury. It provides, however, that if the employer chooses in advance not to recover the workers' compensation benefits from the third party, then the third party cannot get contribution from the employer on the judgment. In other words, the employer can always choose not to be hit with part of a fault-based judgment by electing to pay the regular no-fault workers' compensation benefits.
7 **Limitation of fees.** This section relates to the statutory provisions limiting the legal fees that can be charged in workers' compensation cases. Specifically, the new language requires an attorney to comply with certain filing requirements in order to have money for attorney fees withheld from the payments made to the employee.

8 **Temporary total disability.** Current law provides that once temporary total disability has ceased because an employee returned to work, it can be recommenced if the employee is laid off for reasons other than misconduct within one year of returning to work and before 90 days after maximum medical improvement is reached. This section removes the one-year limitation, so that an employee would be eligible for recommencement of temporary total disability benefits (assuming other eligibility requirements are met) if the employee is laid off and has not yet reached the 90 days post-maximum medical improvement.

9 **Permanent partial disability.** Current law generally calls for permanent partial disability benefits to be paid on a periodic, as opposed to a lump-sum, basis. This section permits the employee to choose lump sum payment and provides for a method of discounting the total amount to present value.

10 **Cessation of benefits.** Provides that an employee receiving a service-based government retirement pension is presumed retired from the labor market. This provision does not apply to disability-based pensions.

11 **Retraining; compensation.** Current law requires an employee to request retraining before two years of temporary partial and temporary total disability compensation have been paid. This section expands that window to three years.

12 **Payments to estate; death of employee.** Provides that in every case of the death of an employee resulting from an injury covered by the workers' compensation statutes where there are no dependents eligible for benefits, the employer must pay the employee's estate $25,000.

13 **Payments to fund; death.** Removes the requirement that in all cases of the death of an employee where there are no dependents, the employer must pay $25,000 to the special compensation fund.

14 **Payments to fund; injury.** This section modifies provisions relating to the timing of payments to the special compensation fund.

15 **Time of injury.** Provides that payments made for personal injuries occurring prior to June 1, 1971 shall be reported to the special compensation fund but shall not be assessed.

16 **Initial report; written report.** Provides for use of a two-page first report of injury form, with a back page that must be given to the employee, explaining certain basic information about the workers' compensation system.

17 **Alternative cost allocation account.** Modifies language relating to the alternative cost allocation account, previously called the settlement and contingency reserve account.

18 **Effective dates.**