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National Commission on State Workers' Compensation Laws Act of 2009 (Introduced in House)

HR 635 IH

111th CONGRESS

1st Session

H. R. 635

To establish the National Commission on State Workers' Compensation Laws.

IN THE HOUSE OF REPRESENTATIVES

January 22, 2009

Mr. BACA introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To establish the National Commission on State Workers' Compensation Laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `National Commission on State Workers' Compensation Laws Act of 2009'.

SEC. 2. FINDINGS.

The Congress finds the following:

- (1) The full protection of American workers from job-related injury or death requires an adequate, prompt, and equitable system of workers' compensation as well as an effective program of occupational health and safety regulation.
- (2) The vast majority of American workers and their families are dependent on workers' compensation for their basic economic security in the event such workers suffer injury or death in the course of employment.
- (3) In 1972, the National Commission on State Workmen's Compensation Laws found that the system of State workers' compensation laws was `inequitable and inadequate'. Since that time, changes in reductions in State workers' compensation laws have increased the inadequacy and inequitable levels of workers' compensation benefits. Serious questions exist concerning the fairness and adequacy of present workers' compensation laws in light of the growth of the economy, changing nature of the labor force, misclassification of workers as independent contractors, and as leased employees, as well as erosion of remedies for the bad faith handling and delay in payment of benefits and medical care to workers and their families, increases in medical knowledge, changes in the hazards associated with various employment, new risks to health and safety created by new technology, and increases in the general level of wages and in the cost of living.

SEC. 3. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the `National Commission on State Workers' Compensation Laws' (hereinafter in this Act referred to as the `Commission').

SEC. 4. DUTIES OF COMMISSION.

(a) In General- The duties of the Commission shall be--

- (1) to review the findings of the previous National Commission on State Workmen's Compensation Laws and its recommendations;

(2) to study and evaluate State workers' compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation for injury or death arising out of or in the course of employment; and

(3) to study and evaluate whether additional remedies should be recommended to ensure prompt and good faith payment of benefits and medical care to injured workers and their families.

(b) Matters To Be Evaluated and Studied- The study and evaluation under subsection (a)(2) shall include--

(1) the amount of permanent and temporary disability benefits and the criteria for determining the maximum limitations of such benefits or the elimination of such maximum limitations;

(2) a study and evaluation of State workers' compensation laws in order to determine if, and ensure that, such laws provide an adequate, prompt, and equitable system of compensation and medical care for injuries or death arising out of in the course of employment;

(3) a study of whether other adequate remedies are available to ensure the prompt payment of benefits and to reduce or eliminate bad faith delays in payments of benefits, providing medical care, and discouraging misclassification of workers as independent contractors and or leased employees to avoid paying workers' compensation benefits;

(4) the amount and duration of medical benefits and provisions ensuring adequate medical care and free choice of physician;

(5) rehabilitation;

(6) standards for determining assurance of benefits caused by aggravation or acceleration of preexisting injuries or disease;

(7) time limits on filing claims;

(8) waiting periods;

(9) compulsory or elective coverage;

(10) administration;

(11) ensuring prompt hearings and due process evidentiary rights in the resolution of claims;

(12) the relationship between workers' compensation on the one hand, and old-age, disability, and survivors insurance and other types of insurance (public or private) on the other hand; and

(13) methods of communicating the recommendations of the Commission.

SEC. 5. MEMBERSHIP.

(a) Number and Appointment- The Commission shall be composed of 14 members, as follows:

(1) 1 member, appointed by the President, who shall serve as chairman of the Commission.

(2) 1 member, appointed by the majority leader of the Senate in consultation with the majority leader of the House of Representatives, who shall serve as vice chairman of the Commission.

(3) 2 members appointed by the majority leader of the House of Representatives.

(4) 2 members appointed by the minority leader of the House of Representatives.

(5) 2 members appointed by the majority leader of the Senate.

(6) 2 members appointed by the minority leader of the Senate.

(7) The Secretary of Labor, the Secretary of Commerce, the Secretary of Health and Human Services, and the Secretary of Education shall be ex officio members of the Commission.

(b) Affiliations-

(1) Not more than 6 appointed members of the Commission shall be from the same political party.

(2) There shall be at all times at least 3 members that represent injured workers, 3 members that represent insurance carriers or employers, and 1 member of the general public.

(c) Qualifications- It is the sense of Congress that individuals appointed to the Commission should be United States citizens--

(1) with significant depth of experience--

(A) as members of State workers' compensation boards;

(B) as representatives of insurance carriers, employers, and injured workers;
and

(C) in the general fields of business and labor;

(2) who are members of the medical profession with experience in industrial medicine or in workers' compensation cases; and

(3) who are educators having special expertise in the field of workers' compensation.

(d) Vacancies- Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Quorum- Eight members of the Commission shall constitute a quorum.

(f) Meetings-

(1) The Commission shall hold its initial meeting as soon as practicable.

(2) After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members.

(g) Travel Expenses- While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(h) Compensation-

(1) BASIC PAY- Each member of the Commission may be compensated at a level not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES- Members of the Commission who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

SEC. 6. STAFF OF COMMISSION.

(a) Director- The Chairman of the Commission, in consultation with the vice chairman and in accordance with the rules agreed upon by the Commission, may appoint a Director. The Director shall be paid at a rate not to exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) Staff- The Chairman, in consultation with the vice chairman and in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedules pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) Experts and Consultants- The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid to a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) Detailees- Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(e) Personnel as Federal Employees- The executive director and any personnel of the Commission who are employees of the Commission shall be treated as employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title. The preceding sentence shall not apply to members of the Commission.

SEC. 7. POWERS OF THE COMMISSION.

(a) Hearings and Evidence- The Commission, or on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this Act--

- (1) hold hearings, take testimony, receive evidence, administer oaths; and
- (2) subject to subsection (b)(1), require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers and documents.

(b) Subpoena Power-

(1) ISSUANCE-

(A) IN GENERAL- A subpoena may be issued under this subsection only--

- (i) by the agreement of the chairman and the vice chairman of the Commission; or
- (ii) by the affirmative vote of 6 members of the Commission.

(B) SIGNATURE- Subject to clause (i) of paragraph (1)(A), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(2) FAILURE TO OBEY A SUBPOENA-

(A) IN GENERAL- In the case of contumacy or failure to obey a subpoena issued under paragraph (1), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or wherever the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished as contempt of that court.

(B) ADDITIONAL ENFORCEMENT- In the case of a failure of any witness to comply with a subpoena or to testify when summoned under authority of this subsection, the Committee may, by a majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for action, under the same authority and procedures as if the United States attorney had received a certification under section 192 through 194 of title 2 of the Revised Statutes of the United States Code.

(3) CONTRACTING- The Commission may, to such extent and in such amounts as are made available in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this Act.

(4) INFORMATION FROM FEDERAL AGENCIES- The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this Act. Each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request of the chairman of the Commission, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

SEC. 8. REPORTS.

(a) Interim Reports- The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for enhancements and improvements in benefit levels, medical care, and administration of State workers' compensation systems, for improvements in insurance practices, and for improvements in dues process and evidentiary hearings and reduction of bad faith and handling of delays, as have been agreed to by a majority of Commission members.

(b) Final Reports- Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for enhancements and improvements in benefit levels, medical care, and administration of State workers' compensation systems, for improvements in insurance practices, and for improvements in due process and evidentiary hearings and reduction of bad faith handling and delays, as have been agreed to by a majority of Commission members.

SEC. 9. TERMINATION.

The Commission, and all the authorities of this Act, shall terminate 19 days after the date

on which the final report is submitted under section 8(b).

SEC. 10. AUTHORIZATION OF APPROPRIATION.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

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