

WORKERS' COMPENSATION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: Brian M. Greene

LONG TITLE

General Description:

This bill modifies the Workers' Compensation Act to address settlements.

Highlighted Provisions:

This bill:

- ▶ permits settlements after the 12 year statute of limitations;
- ▶ permits settlements for claims under the Employers' Reinsurance Fund or the Uninsured Employers' Fund;
- ▶ clarifies that a full and final settlement extinguishes the employer's obligations unless issues are preserved;
- ▶ addresses method of payments under the full and final settlement; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-2-420, as renumbered and amended by Laws of Utah 1997, Chapter 375

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section 34A-2-420 is amended to read:

29 **34A-2-420. Continuing jurisdiction of commission -- No authority to change**
30 **statutes of limitation -- Authority to destroy records -- Interest on award -- Authority to**
31 **approve final settlement claims.**

32 (1) (a) The powers and jurisdiction of the commission over each case [~~shall be~~] is
33 continuing.

34 (b) After notice and hearing, the Division of Adjudication, commissioner, or Appeals
35 Board in accordance with Part 8, Adjudication, may from time to time modify or change a
36 former finding or order of the commission.

37 (c) This section may not be interpreted as modifying [~~in any respect~~] the statutes of
38 limitations contained in Section 34A-2-417 or other sections of this chapter or Chapter 3, Utah
39 Occupational Disease Act, or authorizing the commission to change these statutes of
40 limitations.

41 [~~(d) The commission may not in any respect change the statutes of limitation referred~~
42 ~~to in Subsection (1)(c).]~~

43 (d) In addition to other settlements permissible under this chapter or Chapter 3, Utah
44 Occupational Disease Act, and notwithstanding Subsection (1)(c), the commission may
45 approve a full and final settlement of an employee's claim for compensation under this chapter
46 or Chapter 3, Utah Occupational Disease Act, including the payment of medical and disability
47 benefits, if:

48 (i) (A) the employee's claim for medical benefits is allowed under Subsection
49 34A-2-417(1), but the payment of disability benefits associated with the medical benefits and
50 resulting treatment is barred pursuant to Subsection 34A-2-417(2); and

51 (B) the full and final settlement is presented to the commission for approval; or

52 (ii) an employee's claim for compensation under this chapter or Chapter 3, Utah
53 Occupational Disease Act, is the liability of the Employers' Reinsurance Fund created in
54 Section 34A-2-702 or the Uninsured Employers' Fund created in Section 34A-2-704.

55 (2) [~~Records~~] A record pertaining to [~~cases that have~~] a case that has been closed and
56 inactive for 10 years, other than [~~cases~~] a case of total permanent disability or [~~cases~~] a case in
57 which a claim has been filed as in Section 34A-2-417, may be destroyed at the discretion of the
58 commission.

59 (3) ~~[Awards]~~ An award made by a final order of the commission shall include interest
60 at the rate of 8% per annum from the date when each benefit payment would have otherwise
61 become due and payable.

62 (4) Notwithstanding Subsection (1) and Section 34A-2-108, an administrative law
63 judge shall review and may approve the agreement of the parties to enter into a full and final
64 settlement by means of a:

65 (a) compromise settlement of disputed medical, disability, or death benefit entitlements
66 under this chapter or Chapter 3, Utah Occupational Disease Act; or

67 (b) commutation and settlement of reasonable future medical, disability, or death
68 benefit entitlements under this chapter or Chapter 3 by means of a lump sum payment,
69 structured settlement, or other appropriate payout.

70 (5) A full and final settlement approved under this section shall extinguish the
71 employer's liability to the employee under this chapter and Chapter 3, Utah Occupational and
72 Disease Act, except for an issue that is expressly preserved.

73 (6) A full and final settlement effectuating a compromise or commutation may provide
74 for payment of benefits:

75 (a) in cash or cash equivalents; or

76 (b) through an insurance contract or by a third party if the commission determines that
77 the payment provisions:

78 (i) are secure and assign, transfer, or reinsure the financial obligation to make benefit
79 payments to a qualified third party in compliance with commission rules; or

80 (ii) do not relieve the parties of their underlying liability for payments required by the
81 full and final settlement agreement.

Legislative Review Note
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Office of Legislative Research and General Counsel