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"BEST WORKERS' COMPENSATION LAW" THREATENED

by Jamie Robinson

The shipping industry, insurance companies, and the Reagan Administration have united in a major attack on the strongest workers' compensation law in the country, the Longshoremen's and Harbor Workers' Compensation Act. Unions supporting the Act see the current attack, framed in U.S. Senate Bill 1182, as the beginning of a movement to restrict the scope and benefits of all the nation's workers' compensation systems.

S.1182 excludes many previously covered workers from receiving benefits under the LHWCA, recalculates the maximum benefit formula, limits increases in annual payments to 3% although inflation is running substantially higher, and removes the right of injured workers to choose their own physicians. It is slated to come to a vote in the Senate Committee on Labor and Human Resources in February.

The bill has been opposed by the AFL-CIO, the Building Trades, the Steelworkers, Marine and Shipbuilding Workers, Boilermakers, and the International Longshoremen's and Warehousemen's Union (ILWU), all of which represent affected workers. The AFL-CIO sees the present harbor workers' system as "the best workers' compensation law in the nation" and as a model for what state laws should be.

Opposition to the Senate bill has also come directly from the targeted workers. Last summer a coalition of 5,000 longshoremen, teamsters, and shipyard workers shut down the port of Los Angeles for a day of protest and a march through the harbor area. Rank and file ILWU members came to Sacramento and successfully convinced the State Assembly to pass a resolution opposing any weakening of the act in Washington.

A Betrayal

S.1182 is especially resented as a betrayal of the 1972 compromise between the unions and the shipping industry. At that time, labor gave up its right to sue shipping firms, except in cases of negligence, in return for improved coverage and benefits. S.1182 reduces the coverage and benefits without reinstating the right to sue for damages in case of injury on the job.

The bill would restrict coverage to those longshoremen working on the pier or wharf immediately adjacent to the water, and to those times when the worker is engaged in narrowly defined longshoring activities. Breadth of coverage is crucial. Because of technological changes in the industry, much longshore work now involves loading containers on land away from the wharves. The 1972 law applied to anyone engaged in longshoring operations. Under the current amendments, according to the ILWU, "a longshoreman could be covered one minute and not covered the next, or be covered in one spot and not covered a few steps away." The union feels that the ambiguities in proposed coverage changes will give further incentive to insurers to contest the validity of claims, leading to lengthy delays and administrative costs.

The 1972 law allows workers to choose their own doctors. Under the proposed amendments, injured longshoremen would have to select a physician from a list provided by the companies. Robert Georgine, president of the Building Trades Council of the AFL-CIO, testified that such an amendment would reduce the quality of care available to workers. Experience prior to the adoption of the free choice of

BERKELEY, CA 94720
(415) 642-0323

UNIVERSITY OF CALIFORNIA, BERKELEY
CENTER FOR LABOR RESEARCH AND EDUCATION
INSTITUTE OF INDUSTRIAL RELATIONS



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physician clause in 1972 showed, said Georgine, "that the panels of physicians selected by employers did not provide adequate medical treatment and care to insured workers. Many of those physicians were responsive only to employer concerns of forcing injured workers back to the job and limiting the exposure of employers to liability for work-related illness and injuries."

The maximum ceiling of benefits would be calculated at 80% of "spendable earnings," that is after-tax wages, and annual increases would be limited to 3%. Payments to workers with partial disability would end at retirement age, and all compensation payments would be reduced by the amount of income obtained from social security, health disability insurance, pensions and unemployment insurance. Unions will recognize the latter restriction as the "coordination of benefits" approach developed by the commercial insurance industry for negotiated benefit programs. It is now being applied or proposed on a wholesale basis to legislated social insurance programs.

Union Proposals

The ILWU has put forward three counterproposals for dealing with the rising costs of the longshore compensation act: improved health and safety protection efforts on the waterfront, increased funding to the Department of Labor for effective management of the act, and regulation of private insurance companies that profit from high insurance premiums.

The industry covered by the act is particularly hazardous. Bureau of Labor Statistics figures for 1978 show that the injury and illness rate for marine cargo-handling is twice the national average. The lost-workday rate, a measure of accident severity, is seven times greater than average, and four times the rate of the high-hazard construction industry. These statistics do not include long-term illnesses caused by the handling of toxic cargoes. The seriousness of toxic problems was indicated when the ILWU embargoed work on fruit sprayed with the cancer-causing pesticide EDB, last year.

Much of the rising costs of the longshore act can be attributed to the excessive administrative costs of the private insurance industry. The Social Security Bulletin reported that of the \$17 billion in premiums paid in 1978, 43% or \$7.3 billion went to overhead costs.

Such overhead is much lower when claims are handled by public agencies, according to figures cited by the ILWU. Six states administer their own workers' compensation programs at much lower costs and with much higher benefit levels. Other states, including California, maintain their own public insurance funds in competition with private carriers. The entrance of the California state fund into competition with the private carriers led to a general decline in premium costs.

The unions opposing the changes proposed in S.1182 contend that reductions in accident rates and in profiteering and improvements in administration are the only real alternatives to forcing workers to bear the burden of hazards on the job. Some state governments have taken this blame-the-worker approach and are trying to cut benefits in their workers' compensation programs. If industry and the Reagan administration succeed in crippling the longshore compensation system, the movement to cut back programs on the state level will gain momentum, and all workers will be threatened with further losses in job security levels that are already minimal at best.

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