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OFFICIAL DESCRIPTIONS OF CAL/OSHA AND WORKERS' COMPENSATION INITIATIVE MEASURES. [by Bruce Poyer]

EDITOR'S NOTE: LCR 224, January 1988, explains the California Workers' Initiative Campaign proposal to reform the Workers' Compensation system and to establish the Injured Workers' Bill of Rights. LCR 225, January 1988, explains the California Labor Federation's initiative proposal to restore Cal/OSHA. Following are the California Attorney General's titles and summary descriptions of these measures, as they appear on signature petitions now circulating. Also reproduced here is CWIC's description of amendments to Article XIV of the California Constitution, which would be enacted by passage of CWIC's proposal to establish an Injured Workers' Bill of Rights.

1. California Attorney General's title and summary of CWIC's initiative measure to reform Workers' Compensation and enact the Injured Workers' Bill of Rights:

"Disability Benefits. Constitutional Amendment. Provides an injured worker with disability benefits equal to 2/3 of the workers' gross wage (up to specified maximum) and with family medical insurance. Requires annual benefit adjustment. Benefits awarded provided during appeals process. Prohibits benefit termination except by return to suitable employment, parties' agreement, or order of workers' compensation judge after hearing. Requires hearing within 30 days of request and decision within 30 days of submission. Provides funding for Division of Industrial Accidents and Workers' Compensation Appeals Board from 1% surcharge on the workers' compensation insurance premium or self insurance. Contains other provisions. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: 1. Increased state cost for state workers' compensation benefits of \$10 million to \$100 million annually. Increased costs to local governments of three to four times those of state. 2. In short run, a multi-million dollar net decrease in state General Fund revenues due to loss of tax revenues. Long term effect unknown. 3. State General Fund savings of approximately \$45 million annually resulting from transfer of costs of hearings to a new surcharge on workers' compensation insurance premiums. Surcharge will generate approximately \$75 million annually to cover cost of hearings (\$45 million) plus other costs."

2. California Workers' Initiative Campaign: Description of constitutional amendments which would be enacted by voter approval of the above CWIC initiative measure:

"Article XIV of the California Constitution would be amended by adding, immediately following Article XIV, Section 4, a new Section 4.5, as follows:

"Section 4.5: The Injured Workers' Bill of Rights:

"1. Disability benefits cannot be terminated except by an actual return to suitable, gainful employment, by agreement of the parties, or by an order of Workers' Compensation judge after a formal hearing.

"2. Disability benefits shall be paid every two weeks on a specified day.

"3. Medical care provided or prescribed by the worker's treating physician shall be paid within thirty (30) days of submission of a case.

"4. Without exception, a hearing shall be held within thirty (30) days of submission of a case. judge's decision shall issue within thirty (30) days of submission of a case.

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"5. Annually adjusted disability benefits of two-thirds (2/3) of the injured worker's pre-injury gross wage, to a maximum of 200% of the State Industrial Average Weekly Wage, and medical insurance for the injured worker and his or her family, shall be provided until the worker actually returns to suitable, gainful employment, or until benefits terminate by agreement of the parties or by order of a Workers Compensation judge after a formal hearing.

"6. Benefits initially awarded by a Workers Compensation judge shall be provided pending any appeal by the employer or other defendants.

"7. An injured worker's attorney's fee shall be paid by the employer when the worker obtains an attorney because of a denial of benefits and obtains a reversal of the denial.

"8. An injured worker has the right to file a civil lawsuit for bad faith in the administration or settlement of the injured worker's compensation claims.

"9. Funding for the Division of Industrial Accidents and Workers Compensation Appeals Board shall come from a 1% sur-charge on the workers compensation insurance premium or self insurance."

3. California Attorney General's title and summary of the California Labor Federation's initiative measure to restore Cal/OSHA:

"State Occupational Safety and Health Plan. Initiative Statute. Federal law permits states to enforce occupational safety and health standards in private sector employment pursuant to federally approved state plan. California has had such a state plan and has occupational safety laws regulating private and public employment. In 1987, the Governor took action to withdraw the plan and to reduce its funding. This measure requires funds to be budgeted for the state plan and requires steps to be taken to prevent withdrawal of federal approval of the plan or, if withdrawn, to require submission of new plan. Other changes are made. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: The cost to state government depends on the result of legal action on the issue of the State's present obligation to administer private sector enforcement. If it is held that the State already has an obligation to administer the private sector program notwithstanding the Governor's action, then annual state General Fund costs would be approximately \$600,000 to administer a mine inspection program, offset by minor annual revenue from fines collected. If it is held the State has no obligation to administer the program independent of this measure, then, assuming the previous level of federal matching funds is made available, annual General Fund costs would be approximately \$8.4 million, which would be offset by revenue from fines of approximately \$1.6 million annually."

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