

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 6, 2011
POSITION: Neutral

BILL NUMBER: SB 863
AUTHOR: T. Lieu
RELATED BILLS: SB 457

BILL SUMMARY: Workers' Compensation: Liens

This bill would adopt reforms to the lien procedures in the workers' compensation system.

FISCAL SUMMARY

The Department of Industrial Relations indicates that this bill would likely reduce the number of liens which would result in administrative savings for workers' compensation district offices. The one-time costs to implement regulations governing the practices and procedures of the lien process would be minor and absorbable.

This bill would have no fiscal impact on the Employment Development Department.

COMMENTS

The Department of Finance is neutral on this bill because this measure would bring potentially significant savings to the workers' compensation program with absorbable one-time costs to adopt procedures to implement the new lien rules.

Existing law prescribes certain requirements upon the filing of a lien by a lien claimant and requires the Workers' Compensation Appeals Board (Appeals Board) to file liens immediately upon receipt and authorizes the Appeals Board to determine and allow specified expenses.

This bill would revise these provisions and remove the Appeals Board's authority to order specified medical liens in a proceeding before the Appeals Board without a request for the lien having been made.

Existing law prohibits a lien claim for reasonable expenses incurred by or on behalf of the injured employee and medical-legal expenses from being filed after six months from the date on which the Appeals Board or a workers' compensation administrative law judge issues a final decision on the merits of the claim, after five years from the date of the injury, or after one year from the date the services were provided, whichever is later.

This bill would instead prohibit a lien claim from being filed after three years from the date the services were provided, or more than 18 months after the date the services were provided if the services were provided on or after July 1, 2012. This bill would also:

- Authorize a health care service plan, group disability insurer, self-insured employee welfare benefit plan, or publicly funded program, as provided, to file a lien claim for medical expenses within six months after the entity has notice that an industrial injury is being claimed but in no event later than five years from the date the services were provided.
- Require the Appeals Board to adopt prescribed rules of practice and procedure.

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Analyst/Principal (0242) J. Sturges	Date	Program Budget Manager Lisa Ann L. Mangat	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

T. Lieu

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COMMENTS (continued)

- Provide that these provisions apply to any liens that are filed with the Appeals Board on or after the operative date of this act regardless of the date services were provided, except as expressly provided.

Existing law allows the Employment Development Department to file a lien for unemployment compensation benefits and unemployment disability benefits.

This bill would provide that for a claim allowable as a lien in favor of the Employment Development Department, the claim is a lien against any amount thereafter payable as temporary or permanent disability compensation and that this provision is declarative of existing law and shall not constitute good cause to reopen, rescind, or amend any final order, decision, or award of the Appeals Board.

We note SB 457 (Calderon) of 2011, which would allow for a lien in excess of the Official Medical Fee Schedule, also amends Labor Code section 4903.1 which could lead to chaptering issues.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year)							Fund Code
		PROP 98	FC		2011-2012		2012-2013		
(Dollars in Thousands)									
7100/EDD	SO	No	-----		No/Minor Fiscal Impact		-----		0001
7100/EDD	SO	No	-----		No/Minor Fiscal Impact		-----		0588
7350/DIR	SO	No	-----		No/Minor Fiscal Impact		-----		0001
7350/DIR	SO	No	-----		No/Minor Fiscal Impact		-----		0223
<u>Fund Code</u>	<u>Title</u>								
0001	General Fund								
0223	Workers' Comp Administration Revolv Fund								
0588	Unemployment Compensation Disability Fd								