

COMMITTEE ON COMMERCE
SENATE AMENDMENTS TO S.B. 1403
(Reference to printed bill)

1 Strike everything after the enacting clause insert:

2 "Section 1. Section 23-1061, Arizona Revised Statutes, is amended to
3 read:

4 23-1061. Notice of accident; form of notice; claim for
5 compensation; reopening; payment of compensation;
6 notification of injury

7 A. Notwithstanding section 23-908, subsection E, no claim for
8 compensation shall be valid or enforceable unless the claim is filed with
9 the commission by the employee, or if resulting in death by the parties
10 entitled to compensation, or someone on their behalf, in writing within one
11 year after the injury occurred or the right thereto accrued. The time for
12 filing a compensation claim begins to run when the injury becomes manifest
13 or when the claimant knows or in the exercise of reasonable diligence
14 should know that the claimant has sustained a compensable injury. Except
15 as provided in subsection B OR N of this section, neither the commission
16 nor any court shall have jurisdiction to consider a claim that is not
17 timely filed under this subsection, except if the employee or other party
18 entitled to file the claim has delayed in doing so because of justifiable
19 reliance on a material representation by the commission, employer or
20 insurance carrier or if the employee or other party entitled to file the
21 claim is insane or legally incompetent or incapacitated at the time the
22 injury occurs or the right to compensation accrues or during the one-year
23 period thereafter. If the insanity or legal incompetence or incapacity
24 occurs after the one-year period has commenced, the running of the
25 remainder of the one-year period shall be suspended during the period of

1 insanity or legal incompetence or incapacity. If the employee or other
2 party is insane or legally incompetent or incapacitated when the injury
3 occurs or the right to compensation accrues, the one-year period commences
4 to run immediately on the termination of insanity or legal incompetence or
5 incapacity. The commission on receiving a claim shall give notice to the
6 **INSURANCE** carrier.

7 B. Failure of an employee or any other party entitled to
8 compensation to file a claim with the commission within one year or to
9 comply with section 23-908 shall not bar a claim if the insurance carrier
10 or employer has commenced payment of compensation benefits under section
11 23-1044, 23-1045 or 23-1046, except that the payments provided for by
12 section 23-1046, subsection A, paragraph 1 and section 23-1065, subsection
13 A shall not be considered compensation benefits for the purposes of this
14 section.

15 C. If the commission receives a notification of the injury, the
16 commission shall send a claim form to the employee.

17 D. The issue of failure to file a claim must be raised at the first
18 hearing on a claim for compensation in respect to the injury or death.

19 E. Within ten days after receiving notice of an accident, the
20 employer shall inform the employer's insurance carrier and the commission
21 on such forms as may be prescribed by the commission.

22 F. Each insurance carrier and self-insuring employer shall report to
23 the commission a notice of the first payment of compensation and shall
24 serve on the commission and the employee any denial of a claim, any change
25 in the amount of compensation and the termination ~~thereof~~ **OF COMPENSATION**,
26 except that claims for medical, surgical and hospital benefits that are not
27 denied shall be reported to the commission in the form and manner
28 determined by the commission. In all cases where compensation is payable,
29 the **INSURANCE** carrier or self-insuring employer shall promptly determine
30 the average monthly wage pursuant to section 23-1041. Within thirty days
31 ~~of~~ **AFTER** the payment of the first installment of compensation, the
32 **INSURANCE** carrier or self-insuring employer shall notify the employee and

1 commission of the average monthly wage of the claimant as calculated, and
2 the basis for such determination. The commission shall then make its own
3 independent determination of the average monthly wage pursuant to section
4 23-1041. The commission, within thirty days after receipt of such notice,
5 shall notify the employee, employer and **INSURANCE** carrier of such
6 determination. The amount determined by the commission shall be payable
7 retroactive to the first date of entitlement. The first payment of
8 compensation shall be accompanied by a notice on a form prescribed by the
9 commission stating the manner in which the amount of compensation was
10 determined.

11 G. Except as otherwise provided by law, the insurance carrier or
12 self-insuring employer shall process and pay compensation and provide
13 medical, surgical and hospital benefits, without the necessity for the
14 making of an award or determination by the commission.

15 H. On a claim that has been previously accepted, an employee may
16 reopen the claim to secure an increase or rearrangement of compensation or
17 additional benefits by filing with the commission a petition requesting the
18 reopening of the employee's claim on the basis of a new, additional or
19 previously undiscovered temporary or permanent condition, which petition
20 shall be accompanied by a statement from a physician setting forth the
21 physical condition of the employee relating to the claim. A claim shall
22 not be reopened if the initial claim for compensation was previously denied
23 by a notice of claim status or determination by the commission and the
24 notice or determination was allowed to become final and no exception
25 applies under section 23-947 excusing a late filing to request a
26 hearing. A claim shall not be reopened because of increased subjective
27 pain if the pain is not accompanied by a change in objective physical
28 findings. A claim shall not be reopened solely for additional diagnostic
29 or investigative medical tests, but expenses for any reasonable and
30 necessary diagnostic or investigative tests that are causally related to
31 the injury shall be paid by the employer or the employer's insurance
32 carrier. Expenses for reasonable and necessary medical and hospital care

1 and laboratory work shall be paid by the employer or the employer's
2 insurance carrier if the claim is reopened as provided by law and if these
3 expenses are incurred within fifteen days after the date that the petition
4 to reopen is filed. The payment for such reasonable and necessary medical,
5 hospital and laboratory work expense shall be paid for by the employer or
6 the employer's insurance carrier if the claim is reopened as provided by
7 law and if such expenses are incurred within fifteen days after the filing
8 of the petition to reopen. Surgical benefits are not payable for any
9 period ~~prior to~~ BEFORE the date of filing a petition to reopen, except that
10 surgical benefits are payable for a period ~~prior to~~ BEFORE the date of
11 filing the petition to reopen not to exceed seven days if a bona fide
12 medical emergency precludes the employee from filing a petition to reopen
13 ~~prior to~~ BEFORE the surgery. No monetary compensation is payable for any
14 period ~~prior to~~ BEFORE the date of filing the petition to reopen.

15 I. On the filing of a petition to reopen a claim, the commission
16 shall in writing notify the employer's insurance carrier or the
17 self-insuring employer, which shall in writing notify the commission and
18 the employee within twenty-one days after the date of such notice of its
19 acceptance or denial of the petition. The reopened claim shall be
20 processed thereafter in like manner as a new claim.

21 J. The commission shall investigate and review any claim in which it
22 appears to the commission that the claimant has not been granted the
23 benefits to which such claimant is entitled. If the commission determines
24 that payment or denial of compensation is improper in any way, it shall
25 hold a hearing pursuant to section 23-941 within sixty days after receiving
26 notice of such impropriety. Any claim for temporary partial disability
27 benefits under this subsection must be filed with the commission within two
28 years after the date the claimed entitlement to compensation accrued or
29 within two years after the date on which an award for benefits encompassing
30 the entitlement period becomes final. A claim for temporary partial
31 disability compensation shall be deemed to accrue when the employee knew or
32 with the exercise of reasonable diligence should have known that the

1 INSURANCE carrier, self-insured employer or special fund denied or
2 improperly paid compensation. A claim for temporary partial disability
3 benefits shall not be deemed to have accrued any earlier than September 26,
4 2008.

5 K. When there is a dispute as to which employer or insurance carrier
6 is liable for the payment of a compensable claim, the commission, by order,
7 may designate the employer or insurance carrier that shall pay the
8 claim. Payment shall begin within fourteen days after the employer or
9 insurance carrier has been ordered by the commission to commence payment.
10 When a final determination has been made as to which employer or insurance
11 carrier is actually liable, the commission shall direct any necessary
12 monetary adjustment or reimbursement among the parties or INSURANCE
13 carriers involved.

14 L. On application to the commission and for good cause shown, the
15 commission may direct that a document filed as a claim for compensation
16 benefits be designated as a petition to reopen, effective as of the
17 original date of filing. In like manner on application and good cause
18 shown, the commission may direct that a document filed as a petition to
19 reopen be designated as a claim for compensation benefits, effective as of
20 the original date of filing.

21 M. If the insurance carrier or self-insurer does not issue a notice
22 of claim status denying the claim within twenty-one days after the date the
23 INSURANCE carrier is notified by the commission of a claim or of a petition
24 to reopen, the INSURANCE carrier shall pay immediately compensation as if
25 the claim were accepted, from the date the INSURANCE carrier is notified by
26 the commission of a claim or petition to reopen until the date on which the
27 INSURANCE carrier issues a notice of claim status denying such claim.
28 Compensation includes medical, surgical and hospital benefits. This
29 section shall not apply to cases involving seven days or less of time lost
30 from work.

31 N. IF AN INSURANCE CARRIER OR SELF-INSURED EMPLOYER RECEIVES WRITTEN
32 NOTIFICATION OF AN INJURY FROM AN EMPLOYEE WHO WAS INJURED, THE INSURANCE

1 CARRIER OR SELF-INSURED EMPLOYER MUST FORWARD THE WRITTEN NOTIFICATION OF
2 THE INJURY TO THE COMMISSION WITHIN FIVE BUSINESS DAYS AND INFORM THE
3 EMPLOYEE OF THE EMPLOYEE'S REQUIREMENT TO FILE A CLAIM WITH THE COMMISSION.
4 THE ONE-YEAR PERIOD AS PRESCRIBED IN SUBSECTION A OF THIS SECTION IS
5 SUSPENDED FROM THE DATE THE INSURANCE CARRIER OR SELF-INSURED EMPLOYER
6 RECEIVED WRITTEN NOTIFICATION OF THE INJURY UNTIL THE DATE THAT THE
7 INSURANCE CARRIER OR SELF-INSURED EMPLOYER FORWARDS THE WRITTEN
8 NOTIFICATION TO THE COMMISSION. WHEN THE COMMISSION RECEIVES SUCH
9 NOTIFICATION, THE COMMISSION MUST NOTIFY THE EMPLOYEE OF THE EMPLOYEE'S
10 RESPONSIBILITY TO FILE A CLAIM WITH THE COMMISSION PURSUANT TO THIS
11 SECTION."

12 Amend title to conform

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