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CWIC'S INITIATIVE: THE INJURED WORKERS' BILL OF RIGHTS

Seeking to achieve basic reform of the California workers' compensation system, the California Workers' Initiative Campaign (CWIC) has received state approval to collect signatures to qualify its "Injured Workers' Bill of Rights" initiative for the 1988 general election ballot. The measure has been officially endorsed by the California Labor Federation, AFL-CIO, and its sponsors are now circulating signature petitions. The nine-point "Bill of Rights" initiative would significantly improve Workers' Compensation benefit levels and index them to cost of living changes; assure due process and timeliness in administration of claims; and provide more adequate funding to ensure that state Workers' Compensation administrators can meet time deadlines for processing workers' claims.

CWIC's campaign manager is Kevin McCarthy, an applicant attorney in Santa Rosa. The organizing committee for the initiative campaign includes Dave Manley, an injured worker, Michael Allen, General Manager of Sonoma County Employees Local 707, SEIU, and Bruce Poyer, a Coordinator in the Center for Labor Research and Education, U.C. Berkeley.

According to McCarthy, "too many workers lose their homes, health, families, and even their lives because of an injury on the job -- and worse still -- because of neglect and administrative harassment after the injury." Further, he asserts, politicians in Sacramento have failed for years to deal with the reform measures put forth by labor, which are now presented directly in CWIC's initiative proposal. There has been legislative stalemate since 1982 on all reform issues, and the Governor has vetoed all minor benefit increase bills presented to him by the legislature.

CWIC's Dave Manley continues: "Any long political deadlock just erodes the entire benefit structure of Work Comp, because benefits for injured workers do not increase with the escalating cost of living. However, the doctors and the insurers get their rate increases regularly. For example, there have been six rate increases for insurers in the past three years alone, and a seventh is now pending. This is why California's Work Comp system now ranks among the lowest in the nation in benefits, and among the highest in the nation in costs."

Benefit Improvements in the CWIC Proposal. -- The National Commission on Workers' Compensation recommended in 1972 that basic disability benefits in state plans should be two-thirds of the injured worker's pre-injury gross wage. But most states impose maximum benefit payments that make this standard impossible to achieve. The present cut-off in California is \$224 weekly. CWIC proposes maximum benefits that are at least two-thirds of 200% of the state's average weekly industrial wage, which is now about \$400. This would raise the maximum to about \$540, giving middle-income workers much more protection against loss of savings than they now have. In addition, the CWIC Bill of Rights requires medical insurance to be paid for the injured worker and his or her family, until the worker's return to work or until benefits terminate. At present, the worker is entitled only to medical treatment necessary to cure or relieve the effects of the injury, and the worker's family has no medical protection under the law.

The Bill of Rights initiative would permit a worker to file suit for bad faith in the processing or handling of a Workers' Compensation claim, and would establish statutory guarantees for injured workers, and tighter administrative standards for processing claims. For example, both disability benefits to workers and medical bills to doctors would have to be paid on a timely basis. The initiative would make additional funding available to the Workers'

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Compensation Appeals Board and the Division of Industrial Accidents to carry out these administrative requirements, and would thus speed up the entire claims processing system.

"At the heart of the initiative," says McCarthy, "is the mandate that before disability benefits can be terminated, a formal hearing must be held. There is no requirement at present to hold pre-termination hearings before an employer or an insurer can cut off an injured worker's disability benefits. The only guarantee workers currently enjoy is in the relatively few instances of a continuing award of temporary disability, when the employer or the insurance company must issue a "petition to terminate." But the onus is then on the injured worker to object to the petition and request a hearing. In the meantime, disability benefits are cut off, leaving the injured worker without income."

Prospects for the CWIC Initiative. -- With the December endorsement of the Injured Workers' Bill of Rights by the California Labor Federation, CWIC will seek to add important statewide union support to the grassroots approach it has so far pursued. CWIC organizers also say that their goals are closely related to the CLF's initiative campaign to restore Cal/OSHA.

"The issues are the same," says CWIC's Bruce Poyer. "Both campaigns are asking voters to take legislative action that will do a better job of accident and illness prevention in the workplace, and will also provide fairer treatment when prevention fails. Both measures give the employer an incentive to clean up the workplace -- an incentive that is not present in federal OSHA or in the present state Workers' Compensation system. Both measures were developed by union representatives, and now require the support of all working people to qualify for the ballot and to win a majority vote in November 1988."

What about the costs of the Bill of Rights initiative? The Attorney General, in summarizing the measure, estimated state and local government costs of \$50 to \$500 million, to be balanced against a state saving of "approximately \$45 million" in administrative costs. The latter are shifted from the state to CWIC's proposed new surcharge on workers' compensation insurance premiums, which are paid by employers. In the private sector, the *California Workers' Compensation Reporter* has estimated that benefit increases would be half again the current costs of benefits. But CWIC charges that this estimate is highly inflated. As the campaign for the Injured Workers' Bill of Rights heats up, there will be more estimates of "inordinately expensive" costs from employers and the insurance industry, who can be expected to campaign vigorously against the initiative. Hopefully, there will also be more data to support the estimates.

In the meantime, CWIC needs 595,485 valid signatures on its initiative petitions now circulating, and must get them by a March 7, 1988 cut-off date. Workers and their friends in California can help to establish long needed basic reform in the state's Workers' Compensation system, by gathering signatures for the Injured Workers' Bill of Rights initiative and by working for its passage in the general election of November 1988.

by Mary King

NOTE: To obtain signature petitions or further information about the Injured Workers' Bill of Rights, contact the California Workers' Initiative Campaign, Station A, P.O. Box 2467, Berkeley, California 94702, or call the campaign's headquarters in Santa Rosa at 707-526-4533.

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