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Lawsuits may follow if state denies workers' comp to illegal immigrants

Posted By [Phil Drake](#) On January 10, 2011 @ 2:48 pm In [Featured](#) | [No Comments](#)

By PHIL DRAKE

HELENA – Several attorneys and others warned a legislative committee Monday that if the state passed legislation prohibiting illegal immigrants from being able to collect workers' compensation it could bring a cluster of lawsuits against Montana.

The proposal's sponsor, **Rep. Gordon Vance, R-Bozeman**, told the state Judiciary committee that the idea for **House Bill 71** comes from his experience with the workers' compensation issue when he was on the Legislature's Economic Interim Advisory Committee that examined the costs of the program.

"We are the best of something apparently because we have the highest workers' compensation rates in the country," he said.

In an earlier interview, Vance said the law would state that if an employer knowingly or unknowingly hired an illegal alien and it was later proved by a preponderance of evidence that they were not in the country legally then that person could not collect workers' compensation benefits. Immigration attorney **Shahid Haque-Hausrath** warned lawmakers the bill would bring unintended consequences. Employers could hire more undocumented workers in order to beat workers' compensation costs.

"This bill would do nothing to deter illegal immigration," he said.

Haque-Hausrath added that employees not covered by worker's compensation would simply file a grievance in court.

"There is simply no need for this bill," he said.

The bill is one part of a comprehensive approach to addressing the workers' compensation issue and is not primarily about the issue of illegal immigration, according to Vance.

Under current law, when an illegal immigrant is awarded benefits they may leave the country and those benefits are then sent to their new address, taking the money out of Montana, Vance said. He said that also makes it difficult to send a physician to check on the health status of the recipient.

Kevin Braun, assistant general counsel of **Montana State Fund**, Montana's insurance carrier, told the committee that his agency has seven to eight claims a year in which the claimant's Social Security number does not match.

There is no current estimate on the potential economic impact of the law. The Federation for American Immigration Reform estimated the number of illegal immigrants in Montana in 2005 at 3,000.

At Monday's hearing, **Andrea Olsen**, representing the **Montana Trial Lawyers' Association**, said workers' compensation should cover people from other countries.

"Work-related injuries are not based on status," she said.

Attorney Deborah Smith said this proposed law would create a lot of lawsuits "that frankly, I would like to litigate."

Jamee Greer of the **Montana Human Rights Network**, said his organization was concerned as to how the policy would be implemented.

"Human rights does not know borders," he said. "If workers are injured on a job they have a right to be compensated."

An official from the **American Civil Liberties Union** also opposed the bill .

Vance said after the hearing that he thought the bill went well.

"When there are eight to 10 people who are opposed to a bill, that's a good thing for me," he said.

At some point the bill will back before the committee for another vote, he said.

Article printed from Montana Watchdog: <http://montana.watchdog.org>

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