

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



ANGELA McLEAN
LT. GOVERNOR

April 29, 2015

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 288 (SB 288), "AN ACT PROVIDING THAT A WORKERS' COMPENSATION INSURER HAS FULL SUBROGATION RIGHTS AGAINST AN AT-FAULT THIRD PARTY FOR MEDICAL CLAIMS REGARDLESS OF WHETHER DAMAGE AWARDS EXCEED A COMBINATION OF WORKERS' COMPENSATION BENEFITS AND THIRD-PARTY SETTLEMENTS; AMENDING SECTION 39-71-414, MCA; AND PROVIDING AN EFFECTIVE DATE."

SB 288 changes the law governing subrogation in workers compensation cases where the injured worker recovers damages in a third-party liability case. The bill would allow the workers compensation insurer to recover medical payments made on behalf of the injured worker, regardless of whether the injured worker suffers damages in excess of the workers compensation benefits and third party recovery combined.

The effect of SB 288 in many cases would be to cause harm to a worker who has suffered serious, life-altering injuries. And, even in cases involving less serious injuries, given the low limits of our mandatory insurance liability law, an injured worker will often be left undercompensated for their injuries and damages due to the effects of SB 288's changes in subrogation law.

The primary concern expressed by proponents of SB 288 is the effect that high cost injuries have on their "mod factor" – the modification factor used to calculate employers' premium rates. The mod factors may also adversely affect employers' abilities to get contracts with some companies and governmental entities. While these are serious and legitimate concerns, SB 288 does not directly address those concerns. I believe efforts should be made in the coming interim to identify ways to address the legitimate concerns of employers, without inequitably harming the rights of injured employees to obtain full legal redress for their injuries. Therefore, I will direct the Commissioner of Labor and Industries and other members of my administration to work with the Labor Management Advisory Council and other stakeholders to identify possible alternative ways of addressing the concerns underlying SB 288.

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For these reasons, I veto SB 288.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SB', with a long horizontal flourish extending to the right.

STEVE BULLOCK
Governor

cc: Legislative Services Division
Debby Barrett, President of the Senate
Austin Knudsen, Speaker of the House