

SENATE CONCURRENT RESOLUTION

CONCERNING ACT 10 OF THE SECOND EXTRAORDINARY SESSION OF 1986,
AND REQUESTING THE WORKERS' COMPENSATION COMMISSION TO CON-
SIDER MODIFYING COMMISSION RULE 26 REGARDING PRELIMINARY
CONFERENCES.

WHEREAS, Act 10 of the Second Extraordinary Session of 1986 was an attempt to improve the Arkansas Workers' Compensation System in a manner beneficial to both employees and employers in our State, and, among many other things, added to Initiated Measure No. 4 of 1948 Section 23.1 authorizing and directing the Workers' Compensation Commission to promulgate rules and regulations to establish and implement a preliminary conference procedure to "provide the claimant an opportunity to confer with a legal adviser on the staff of the Commission...; and to facilitate the resolution of issues without the expense of litigation or attorney fees for either party..." and added Section 32 (d) which provides "...Unless compensability of a claim is controverted by the employer or carrier, fees for legal services by the claimant's attorney with respect to disability for loss of wage earning capacity shall be payable only for amounts awarded at a contested hearing which exceed the amount, if any, which the employer or carrier agreed in writing to accept at the preliminary conference"; and

WHEREAS, some of the purposes of Act 10 were to make certain that:

- the Workers' Compensation laws are administered in a manner fair to both parties, and
- the claims process would be as expeditious as possible, and
- there would be a procedure that would make possible the early resolution of misunderstandings on the part of either the injured employee or the employer, without incurring the expense of litigation, attorney's fees, etc., and
- the goal of returning the injured employee to gainful employment as soon as possible would be furthered, and
- the employee would be placed in an equal bargaining position by virtue of free legal advice by a legal adviser, although the employee would be free to reject that advice or bring his own attorney or other

adviser, and could not be required to enter into particular agreement,
and

- to allow the employee, upon advice of a legal adviser or otherwise,
to employ a private attorney, although neither the legal adviser nor
other Commission personnel would recommend any particular attorney; and

WHEREAS, the General Assembly hereby addresses the rule regarding preliminary conference procedure promulgated and adopted by the Commission and urges the Commission to change the rule; and

WHEREAS, the Attorney General hereby has on two separate occasions issued opinions concerning the preliminary conference procedure,

NOW THEREFORE,

BE IT RESOLVED BY THE SENATE OF THE SEVENTY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the General Assembly hereby urges the Workers' Compensation Commission to implement all the provisions of Act 10 of the Second Extraordinary Session of 1986 in a manner that is fair to all Arkansas employees and employers.

BE IT FURTHER RESOLVED that the General Assembly hereby requests the Workers' Compensation Commission to establish and administer a preliminary conference procedure at which the attendance by the claimant is voluntary consistent with the opinions of the Attorney General.

BE IF FURTHER RESOLVED that upon adoption of this resolution a copy hereof shall be transmitted to each member of the Workers' Compensation Commission.