

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6322
BILL NUMBER: SB 52

DATE PREPARED: Jan 19, 2000
BILL AMENDED: Jan 13, 2000

SUBJECT: Worker's compensation.

FISCAL ANALYST: Chuck Mayfield
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FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (1) This bill prohibits recovery of benefits for an injury caused by the employee's commission of a traffic offense.

(2) The bill limits the attorney's fees required to be paid by the employer in connection with a third party action to a percentage of the amount of benefits actually repaid, rather than of the amount of reimbursements. It specifies that the employer is not required to pay attorney fees for an employee's attorney if the fee is based upon unpaid benefits that are terminated as a result of a settlement or other resolution of the third party claim.

(3) The bill makes changes regarding compromise settlements.

(4) It removes the requirement that notice of injury or death be given to an employer within 30 days of the injury or death of an employee.

(5) This bill removes the provision allowing claims to be filed within two years after the death of an employee, thus requiring claims for death to be filed within two years after the occurrence of an accident resulting in death.

(6) It specifies that the worker's compensation board may not order treatment or medical services to be furnished beyond the period of time allowed for review of the claim. This bill authorizes an attending physician or other health care provider to report to the employer or the employer's insurance carrier regarding all aspects of the employee's medical history, treatment and prognosis, and specifies that all such information is not privileged.

(7) The bill removes the employee's right to have a physician present at the examination conducted by the employer's physician following an injury.

(8) It requires an award for temporary total disability or temporary partial disability compensation to be supported by medical opinion evidence.

(9) This bill also removes from the list of presumptive dependents an unmarried child over the age of 21 who at the time of death of the parent is keeping house for and living with the parent and is not otherwise employed.

(10) It changes the rate of interest paid on future unpaid installments of compensation from 3% to 8%.

(11) It also changes from two years to one year the period of time within which a party may apply for a

modification to an award.

(12) The bill allows the Worker's Compensation Board to fix the amount of the employer's attorney's fees to be paid by the claimant whenever the Board determines that the claimant's application for benefits was unwarranted by existing law or evidence.

(13) The bill limits the \$20,000 maximum amount of a bad faith claim to the life of the claim for benefits arising from an injury.

(14) It makes several changes to the definition of "average weekly wages".

(15) This bill excludes mental or emotional injury resulting from work-related stress unless it is demonstrated that the stress was predominantly work-related and was extraordinary and unusual, as measured by objective standards and actual events.

(16) The bill defines "total permanent disability".

(17) This bill increases worker's compensation and occupational diseases compensation benefits for each year beginning July 1, 2001 and ending July 1, 2004.

Effective Date: July 1, 2000.

Explanation of State Expenditures: (17) This bill increases the maximum average weekly wage used in the determination of compensation for temporary total disability, temporary partial disability, and total permanent disability (see Table A). Medical benefits are determined by the degree of impairment and are not based on the wage. The bill also increases the maximum compensation (exclusive of medical benefits) that may be paid for an injury under worker's compensation and occupational disease law. New maximum compensation limits are added for injuries occurring after July 1, 2001 (see Table A below).

Table A: Average Weekly Wage and Maximum Compensation Additions

(for worker's compensation and occupational disease)

	FY 2000 (Current)	FY 2001 (Current)	FY 2002 (Proposed)	FY 2003 (Proposed)	FY 2004 (Proposed)	FY 2005 (Proposed)
Maximum Weekly Wages	\$702	\$732	\$792	\$822	\$852	\$882
Maximum Compensation	\$244,000	\$254,000	\$264,000	\$274,000	\$284,000	\$294,000

It is difficult to determine the potential cost of these changes. SEA 12 (ss) - 1997 included similar adjustments for three years of permanent partial impairment rate increases and four years of average weekly wage increases. An actuarial analysis of these changes was performed by the National Council on Compensation Insurance (NCCI). The results predicted annual increases in premium rates of 5.6%, 0.4%, 2.6%, and 0.3% beginning July 1, 1997. (SEA 12 (ss) - 1997 also included numerous other provisions not in this proposal, and these other provisions could have contributed to cost increases).

Despite the NCCI's projections, actual premium rates effective January 1, 1997 through January 1, 1999 have actually declined by 1.4% (based on the advisory rate filed by the Indiana Compensation Rating Bureau). Compensation paid to state employees has also not increased drastically. Indemnity payments totaled approximately \$2.9 M in FY 1996, \$3.1 M in FY 1997, and \$3.4 M in FY 1998.

The discrepancy between the NCCI's projections and the actual premium rate changes demonstrate the

difficulty in estimating the impact of this type of proposal. It is not known at this time how the provisions of this bill will impact state compensation costs, although it is likely that there will eventually be an increase. It is also possible that the impact of this bill will be smaller than that of SEA 12 (ss) - 1997.

Explanation of State Revenues:

Explanation of Local Expenditures: See State Expenditures.

Explanation of Local Revenues:

State Agencies Affected: Worker's Compensation Board, All Agencies .

Local Agencies Affected: All.

Information Sources: Mike McNally, Worker Compensation Board, (317) 232-3809