

**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 30, 2000

BILL AMENDED: Jan 28, 2000

SUBJECT: Worker's compensation.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) (1) This 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.

(2) It makes changes regarding compromise settlements.

(3) The bill provides that no compensation or expenses shall be paid until notice of injury is given to the employer or the employer obtains knowledge of the injury.

(4) The bill also provides that if a physical examination (or traveling to an examination) causes an employee a loss of working time, the employer must compensate the employee as if the absence from work were a temporary partial disability.

(5) This bill requires an award for temporary total disability or temporary partial disability compensation to be supported by medical opinion evidence or an affirmative finding of a hearing officer.

(6) It increases the average weekly wages used in the determination of benefits, thereby increasing worker's compensation and occupational diseases compensation benefits for each year beginning July 1, 2001 and ending July 1, 2004.

(7) It 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.

(8) 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.

(9) This bill also 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.

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

(11) It provides that if the worker's compensation board determines that a claimant's application for benefits was fraudulent or in bad faith, the board shall fix the amount of the attorney's fees to be paid by the claimant.

(12) It also provides that a parent or a subsidiary of a corporation or a lessor of employees is the employer for purposes of determining the exclusive remedy under the worker's compensation law.

Effective Date: July 1, 2000.

Explanation of State Expenditures: (Revised) (6) 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.

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	\$732	\$762	\$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