LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

301 State House
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FISCAL IMPACT STATEMENT

LS 6322 **DATE PREPARED:** Feb 23, 2000
BILL NUMBER: SB 52 **BILL AMENDED:** Feb 23, 2000

SUBJECT: Worker's Compensation and Unemployment Compensation.

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FUNDS AFFECTED: **X** **GENERAL** **IMPACT:** State & Local
X **DEDICATED**
FEDERAL

Summary of Legislation: (Amended) This bill makes changes to Worker’s Compensation and Unemployment Compensation.

Worker’s Compensation
(1) The bill provides that if a determination of eligibility for worker's compensation is not made within 30 days and the employer is subsequently determined to be liable to pay compensation, the first installment of compensation must include the accrued weekly compensation and interest at the legal rate computed from the date 14 days after the disability begins.
(2) The bill requires an employer to reimburse an injured employee for loss of wages when treatment or travel to or from the place of treatment causes a loss of working time to the employee.
(3) Establishes a formula based on the Consumer Price Index to determine the amount of worker's compensation due for injuries, deaths and occupational diseases occurring on or after July 1, 2003..
(4) The bill also increases the worker's compensation death benefit.
(5) The bill creates disabled from trade compensation.
(6) The bill creates the occupational disease second injury fund.
(7) The bill provides that upon reasonable notice and upon the employee's presentation of a written consent for release of the employee's health records, the physician or surgeon must supply to the employee, the employee's attorney, or another authorized representative, the health records (including x-rays) possessed by the physician or surgeon concerning the employee.
(8) The bill prohibits an employer or insurance carrier from transferring an employee from a treating medical service provider to another medical service provider without the employee's consent.
(9) The bill restricts employer and insurance representatives from being present at an employee medical examination unless the employee consents.

Unemployment Compensation

This bill makes changes to unemployment compensation, including the following:
(1) It makes changes as to the issue of default as to assessment.
(2) It provides that the directors and officers of an employer have personal liability for unemployment assessments owed by the employer.
(3) It allows unemployment insurance records to be disclosed if the individual and the employing unit authorize the disclosure.
(4) It provides that the Health Professions Bureau and the Professional Licensing Agency may allow the Department of Workforce Development to have access to the name of each person who has a license or has applied for a license, and that a professional license may be denied to a person who has unpaid liability with the Department of Workforce Development.

Effective Date: July 1, 2000.

Explanation of State Expenditures: (Revised) Workers Compensation Provisions *(1) Interest on awards:* The impact will depend on the number and amount of claims that take longer than 30 days to determine. The industry estimates that about 70% of the claims are settled in the first 30 days. The interest rate currently in statute is 8%. The Indiana Compensation Rating Bureau reports workers' compensation premiums of $509,391,000 in 1998.

The impact on the state is as an employer. Assuming that 30% of the claims would take about 6 months to settle, the interest expenditures for FY 1999 would have been $44,400.

(2) Loss Wages for Treatment: The bill provides if the treatment or travel to or from the place of treatment causes a loss of working time to the employee then the employer shall reimburse the employee for the loss of wages. The impact would depend on the number of employees sent for treatment during working hours. The impact is unknown.

(3) Worker's compensation due for injuries, deaths and occupational diseases: 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 and July 1, 2002 (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)
Maximum Weekly Wages	$732	$762	$840	$918	Based on CPI
Maximum Compensation	$244,000	$254,000	$280,000	$306,000	Based on CPI

This bill also increases the rates for calculating permanent partial impairment compensation under worker's compensation and occupational disease law. The rates traditionally vary depending on the degree of impairment resulting from the injury. A different set of rates each year for three years are established by this bill (see Table B below). The rates are effective for injuries and disablement occurring after the date shown in each column.

Table B: Permanent Partial Impairment Rates

Permanent Partial Impairment Degrees of Injury	Current	Effective July 1, 2000	Effective July 1, 2001	Effective July 1, 2002	Effective July 1, 2003
1-10 Degrees	$900	$2,050	$2,400	$2,747	Based on CPI
11-35 Degrees	$1,100	$2,700	$3,075	$3,433	Based on CPI
36-50 Degrees	$1,600	$3,300	$3,775	$4,292	Based on CPI
Over 50 Degrees	$2,000	$3,900	$4,525	$5,365	Based on CPI

It is difficult to determine the potential cost of these changes. SEA 12 (ss) - 1997 included similar type of adjustments, although the magnitude of the adjustment was different, 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 about 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 have 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.

(4) Death Benefits: The bill changes the death benefit to dependents from 66 2/3% of the weekly wage times 500 weeks minus the amount paid to the deceased employee to 100% of the weekly wage times 500 weeks minus the amount paid to the deceased employee. The provision increases the death benefit by more than 50%. No estimated of the cost of the provision is currently available.

(5) Disabled from trade: The bill establishes the disabled from trade compensation benefits. Under this proposal, if an employee sustains an injury resulting in temporary total disability or permanent partial impairment but is able to return to work at a lower-paying position, the employee may be compensated for the difference between his/her former and current wages. Disabled from trade compensation would be available in addition to any other compensation awarded for such injuries. The actual amount compensated would be based on the employee's average weekly earnings and would be capped at $762 per week. Eligibility for disabled for trade compensation is limited to 52 consecutive weeks or 78 aggregate weeks.

The exact impact of this provision is difficult to determine. The Worker's Compensation Board does not collect information concerning the number of workers that cannot return to work at their original position. However, as the majority of workplace injuries would not prevent an employee from returning to his/her previous position, it is unlikely that the additional costs resulting from this proposal would represent a significant increase in worker's compensation payments. This provision could also reduce worker's compensation payments, if employees return to work sooner and the disabled from trade compensation are less than temporary total disability benefits.

(6)Occupational Disease Second Injury Fund: The bill establishes the Occupational Disease Second Injury Fund (effective January 1, 2000) for supplemental compensation to employees disabled from occupational diseases whose benefits have otherwise been exhausted. This fund would be administered by the Worker's Compensation Board. The Board could incur additional administrative expenses associated with this proposal, however, these expenses could be absorbed given the Board's current budget and resources.

(7) Release of Medical Records: The bill provides that upon reasonable notice and upon the employee's presentation of a written consent for release of the employee's health records, the physician or surgeon must supply to the employee, the employee's attorney, or another authorized representative, the health records (including x-rays) possessed by the physician or surgeon concerning the employee. This provision would not have a fiscal impact.

(8) Change in medical service provider: The bill prohibits an employer or insurance carrier from transferring an employee from a treating medical service provider to another medical service provider without the employee's consent. This provision would not have a fiscal impact.

(9) Examination restriction: The bill provides that a representative of the employer or insurance carrier may not attend an examination or treatment of an injured employee without the written consent of the employee and the treating medical personnel. This provision would not have a fiscal impact.

Compensation paid to state employees (exclusive of medical benefits) totaled approximately $2.9 M in FY 1996, $3.1 M in FY 1997, $3.4 M in FY 1998, and $3.7 M in FY 1999.

<u>Unemployment Compensations Provisions</u>: The bill allows an employing unit to appeal a final assessment of unemployment compensation liability up to two years after the assessment. Currently the unit has 15 days to file the appeal, if the reasons for the appeal are mistake, surprise or excusable neglect. The number of appeals is expected to be small and the fiscal impact on the Unemployment Insurance Benefit Fund minor.

The bill improves the ability of the Department of Workforce Development to collect delinquent contributions. The contributions, penalties, and interest due from any employer are liabilities of directors and officers of an employer. The current amount of delinquent tax, interest, and penalties is about $32 M.

<u>Explanation of State Revenues:</u> (Revised) *Occupational Disease Second Injury Fund*: Under this bill, insurance carriers would pay 1.5% of their total annual payout of compensation for disablement or death from occupational diseases into the Occupational Disease Second Injury Fund. If the balance of the fund exceeds $1 M on April 1 of any year, the 1.5% assessment will be suspended for the following year (or until the balance falls below $1 M).

An employee may apply to the Worker's Compensation Board for continuation of coverage by drawing on the Occupational Disease Second Injury Fund. An employee may receive up to 66 2/3% of the average weekly wage at the time of disablement. However, the employee would be limited to the maximum compensation. (See Table A above.)

<u>Explanation of Local Expenditures:</u> (Revised) Local governments and school corporations could incur an indeterminable increase in expenses as a result of this proposal (see above Explanation of State Expenditures). Like the state, most of these units are self-insured and would directly bear any additional costs related to disabled from trade compensation. For any entities purchasing private worker's compensation insurance, the cost of insurance premiums would likely increase as a result of this proposal.

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