

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

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 7321**

**BILL NUMBER: HB 1313**

**DATE PREPARED:** Jan 9, 2002

**BILL AMENDED:**

**SUBJECT:** Worker's and Unemployment Compensation.

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**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill establishes the Second Injury Fund for occupational diseases. It provides for 10% interest from the date of filing an application for an adjustment of claim concerning the payment of workers' compensation. The bill provides that an employee who: (1) has an injury or occupational disease that results in a temporary total disability or a temporary partial impairment; and (2) is capable of performing work with permanent limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's injury or occupational disease may receive compensation for the difference in average weekly earnings lost. It limits "disabled from trade" compensation to 52 consecutive weeks or 78 aggregate weeks and establishes a cap of \$762 per week. It also reduces worker's compensation due by 20% for certain acts or the failure to act by the employee (instead of denying compensation altogether).

This bill also provides that unemployment benefits retroactive to the date of the beginning of a strike subject to the maximum benefit periods due may be paid to a striking individual when the employer shuts down operations. It permits retroactive application for unemployment benefits based on seasonal employment in this circumstance. The bill provides that certain strike-related benefits are not considered remuneration for purposes of computing deductible income. It makes conforming amendments.

**Effective Date:** July 1, 2002.

**Explanation of State Expenditures:** *Disabled from Trade:* The bill establishes the "disabled from trade" compensation benefits. Under this proposal, if an employee sustains an injury or occupational disease 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 benefits are less than temporary total disability benefits.

*Occupational Disease Second Injury Fund:* The bill establishes the Occupational Disease Second Injury Fund (effective January 1, 2002) 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.

*Compensation Reduction:* The bill reduces the benefit by 20% if the injury or death was due to the employee's:

- a. willfully self-inflicted injury;
- b. intoxication;
- c. commission of an offense;
- d. willful failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work; or
- e. willful failure to perform any statutory duty.

Currently, the employee is not eligible for benefits under the situations specified above. The number of employees that are excluded from benefits under the current law is unknown.

*Prejudgement Interest:* The bill provides prejudgement interest based on a rate of 10% per year accruing from the date of filing of the application of adjustment of claim. The potential impact is unknown. The impact would depend on the amount of the claim and the processing time of a claim that goes to the Worker's Compensation Board or the courts. *Example:* If the claim was \$600 per week and the claim took six months to be determined by the Board or a court, then the interest for the claim would be about \$363.

The state is impacted as an employer. The state spent \$3.1 M in FY 1997, \$3.4 M in FY 1998, \$3.7 M in FY 1999, \$3.9 M in FY 2000, and \$4.5 M in FY 2001 on worker's compensation payments.

*Unemployment Benefits for Strikers if Business Shuts Down:* The bill could increase the expenditures from the Unemployment Insurance Benefit Fund by an unknown amount. The bill could reduce the fund balance, and if the balance is reduced sufficiently, then employer rates could increase. However, the individual employer's rate would not increase since the employer has terminated operations.

The bill should have no impact on the state as an employer.

### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** Local governments and school corporations could incur an indeterminable increase in expenses as a result of these proposals (see *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; Department of Workforce Development; All State Agencies.

**Local Agencies Affected:** All Local Units of Government.

**Information Sources:**