LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7321
BILL NUMBER: HB 1313

DATE PREPARED: Feb 5, 2002
BILL AMENDED: Feb 4, 2002

SUBJECT: Worker's and Unemployment Compensation.

FISCAL ANALYST: Chuck Mayfield
PHONE NUMBER: 232-4825

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

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides for changes to benefits due for worker's compensation. It changes assessments to the Second Injury Fund for injured employees, and establishes the Second Injury Fund for occupational diseases. The bill provides for 10% interest from the date of filing an application for an adjustment of claim concerning the payment of workers' compensation. It 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. This bill limits disabled from trade compensation and establishes a cap on compensation. It also reduces worker's compensation to the employee by 15% for failure to use certain safety appliances or the failure to obey certain safety requirements (instead of denying compensation altogether), and increases compensation by 30% when the employer fails to comply with safety methods or to install or maintain safety appliances. The bill 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 provides that certain strike-related benefits are not considered remuneration for purposes of computing deductible income for unemployment benefits, repeals the one-week waiting period for benefits, and changes the base period used to compute benefits. The bill raises the unemployment compensation maximum wage credits. This bill establishes work sharing and job training unemployment compensation benefits. It makes conforming amendments.

Effective Date: (Amended) Upon Passage; January 1, 2002; July 1, 2002; January 1, 2003.

Explanation of State Expenditures: (Revised) *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.

Second Injury Fund Assessment: Current law allows the Worker's Compensation Board to assess a fee of 2.5% of the total amount of worker's compensation paid to injured employees or their beneficiaries if the balance in the fund is less than $1,500,000 on October 1. The Second Injury Fund had a balance of $1,057,249 on June 30, 2001, but had an outstanding loan of $206,000. The benefits paid from the fund for FY 2001 was $2,278,406, and the assessments totaled $2,025,558. The assessment is limited to no more than 0.25% more than the amount recommended by the actuary. The bill increases the maximum assessment to 3.5% if the fund balance is less than $2.5 M. A 3.5% assessment would have raised about $2,835,781 for FY 2001.

Compensation Adjustments: The bill reduces the benefit by 15% if the injury or death was due to the employee's intentional:

a. failure to use a safety appliance furnished by the employer; or
b. failure to obey an order or administrative regulation of the Worker's Compensation Board or the employer.

The bill increases the benefit by 30% for an injury or death caused in any degree by the employer's intentional failure to comply with a statute or administrative regulation regarding safety methods or installation or maintenance of safety appliances.

The number of employees that are excluded from benefits or receive increased 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.

Permanent partial impairment: This bill 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 two years are established by this bill (see Table A below). The rates are effective for injuries and disablement occurring after the date shown in each column.

Table A: Permanent Partial Impairment Rates			
Permanent Partial Impairment Degrees of Injury	Current	Effective July 1, 2002	Effective July 1, 2003
1-10 Degrees	$1,300	$2,050	$2,400
11-35 Degrees	$1,500	$2,700	$3,075
36-50 Degrees	$2,400	$3,300	$3,775
Over 50 Degrees	$3,000	$3,900	$4,525

Average weekly wage: 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 B). 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 B below).

Table B: Average Weekly Wage Additions (for worker's compensation and occupational disease)			
	FY 2002 (Current)	**FY 2003 (Current)**	**FY 2004 (Proposed)**
Maximum Weekly Wages	$822	$882	$942

It is difficult to determine the potential cost of these changes. PL 31-2000 included similar types of adjustments, although the magnitude of the adjustments were different. An actuarial analysis of these changes is being performed by the National Council on Compensation Insurance (NCCI). The results are not currently available. The note will be updated when NCCI finishes their analysis. NCCI estimated the impact of the provisions of Pl 31-2000 to be a 3.6% increase in premiums for FY 2001. According to the Indiana Compensation Rating Bureau, premiums increased by 1.5% for 2001 and decreased by 7.4% for 2002. Premiums for workers' compensation for 2000 were about $592 M.

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. The additional state cost would probably be similar to the 2001 cost of about $600,000.

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.

Elimination of One-Week Waiting Period: The elimination of the one-week waiting period for unemployment compensation will have an impact on the total amount of Unemployment Insurance Benefit Trust Fund benefits paid. For the period of October 2000 to September 2001, there were 122,000 claims that did not exhaust their benefits and the average weekly benefits were $236. Assuming the individuals would have received one additional week of benefits, the impact is estimated to be $28.8 M (($236*1 week)*122,000 claims).

Increase in Maximum Unemployment Benefits: The current earnings base used for the computation of weekly benefits is $7,900 per quarter for a maximum weekly benefit of $336 for FY 2003. The bill increases the earnings base to $8,500 per quarter and increases the maximum weekly benefit to $360, an increase of $24 (10.1%) for FY 2004. The bill also changes the method of calculating benefits for FY 2005 and later. The new calculation is 4 1/6% of the individual's average quarterly wages during the two quarters of the individuals's base year in which the individual's total wages were highest. The new maximum benefit is 50% and the minimum benefit is 15% of the average weekly wage for the period beginning January 1 and ending June 30 of current year. If the average weekly wage in 2004 is $780, then the maximum benefit would be $390 and the minimum benefit would be $117.

This provision will impact the amount of benefits available to an individual from the Unemployment Benefit Trust Fund. Based on the amount paid in unemployment benefits in FY 2001, this bill would increase expenditures from the Unemployment Benefit Trust Fund by approximately $32.8M in FY 2004, and $73.8 M for FY 2005.

Note: The Unemployment Benefit Trust Fund is funded by quarterly contributions made by employers. The amount of each employer's contribution is based on each employer's individual unemployment account history and the past year's statewide unemployment rate. Other factors, including benefits paid to former employees, voluntary payments made, and the partial selling and purchasing of other businesses by the employer also impact each employer's rate. The potential impact of the provisions of this bill will change as the state's economy changes. For example, if the state's unemployment rate increases, the amount of unemployment benefits paid from the Fund will increase, and an employer's contribution rate to the Fund will change.

The State of Indiana is self insured for unemployment benefits and pays claims as they occur. Each agency is responsible for paying its unemployment claims. For FY 2001 the state paid $1.7 M in benefits: $913,794 from the General Fund and $810,984 from dedicated funds. The maximum impact to state agencies is about $123,000 for FY 2004 ($65,000 from the General Fund and $58,000 from dedicated funds) and $277,000 for FY 2005.

Work Sharing Unemployment Compensation Benefits: The bill allows for the development of a job sharing plan by a business with the approval of the Department of Workforce Development. The plan would list the individuals involved in the job sharing, and the plan would be limited to a duration of not more than six months. During that time an individual could receive partial unemployment benefits. The benefit would equal the benefit the individual would be eligible for times the percentage reduction in working hours due to the job sharing. The fiscal impact is unknown. The bill would give businesses an option during economic slowdowns.

Expanded Unemployment Benefits While in State Training: The bill allows an individual to continue to receive benefits for up to 52 times the weekly benefit amount, reduced by the total amount of regular and extended benefits paid. The individual has to apply to the Department of Workforce Development and must be determined to need job-related training to find suitable employment. The fiscal impact would depend on the number of individuals that apply and the length of the training. If 100 individuals applied and received an additional 26 weeks of benefits the impact to the fund would be about $613,000.

The balance in the Unemployment Insurance Benefit Fund as of June 30, 2001, was about $1.47 B, and benefits paid were about $459 M.

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: Indiana Compensation Ratings Bureau website.