

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1313 be amended to read as follows:

- 1 Page 13, between lines 39 and 40, begin a new paragraph and insert:
- 2 "SECTION 4. IC 22-3-3-13, AS AMENDED BY P.L.202-2001,
- 3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2002]: Sec. 13. (a) As used in this section, "board" refers to
- 5 the worker's compensation board created under IC 22-3-1-1.
- 6 (b) If an employee who from any cause, had lost, or lost the use of,
- 7 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and
- 8 in a subsequent industrial accident becomes permanently and totally
- 9 disabled by reason of the loss, or loss of use of, another such member
- 10 or eye, the employer shall be liable only for the compensation payable
- 11 for such second injury. However, in addition to such compensation and
- 12 after the completion of the payment therefor, the employee shall be
- 13 paid the remainder of the compensation that would be due for such
- 14 total permanent disability out of a special fund known as the second
- 15 injury fund, and created in the manner described in subsection (c).
- 16 (c) Whenever the board determines under the procedures set forth
- 17 in subsection (d) that an assessment is necessary to ensure that fund
- 18 beneficiaries, including applicants under section 4(e) of this chapter,
- 19 continue to receive compensation in a timely manner for a reasonable
- 20 prospective period, the board shall send notice not later than October
- 21 1 in any year to:
- 22 (1) all insurance carriers and other entities insuring or providing
- 23 coverage to employers who are or may be liable under this article
- 24 to pay compensation for personal injuries to or the death of their

1 employees under this article; and  
 2 (2) each employer carrying the employer's own risk;  
 3 stating that an assessment is necessary. After June 30, 1999, the board  
 4 may conduct an assessment under this subsection not more than one (1)  
 5 time annually. Every insurance carrier and other entity insuring or  
 6 providing coverage to employers who are or may be liable under this  
 7 article to pay compensation for personal injuries to or death of their  
 8 employees under this article and every employer carrying the  
 9 employer's own risk, shall, within thirty (30) days of the board sending  
 10 notice under this subsection, pay to the worker's compensation board  
 11 for the benefit of the fund an assessed amount that may not exceed ~~two~~  
 12 **three** and one-half percent (~~2.5%~~) (**3.5%**) of the total amount of all  
 13 worker's compensation paid to injured employees or their beneficiaries  
 14 under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding  
 15 the due date of such payment. For the purposes of calculating the  
 16 assessment under this subsection, the board may consider payments for  
 17 temporary total disability, temporary partial disability, permanent total  
 18 impairment, permanent partial impairment, or death of an employee.  
 19 The board may not consider payments for medical benefits in  
 20 calculating an assessment under this subsection. If the amount to the  
 21 credit of the second injury fund on or before October 1 of any year  
 22 exceeds ~~one two million five hundred thousand~~ dollars (~~\$1,000,000~~);  
 23 (**\$2,500,000**), the assessment allowed under this subsection shall not  
 24 be assessed or collected during the ensuing year. But when on or before  
 25 October 1 of any year the amount to the credit of the fund is less than  
 26 ~~one two million five hundred thousand~~ dollars (~~\$1,000,000~~);  
 27 (**\$2,500,000**), the payments of not more than ~~two three~~ and one-half  
 28 percent (~~2.5%~~) (**3.5%**) of the total amount of all worker's compensation  
 29 paid to injured employees or their beneficiaries under IC 22-3-2  
 30 through IC 22-3-6 for the calendar year next preceding that date shall  
 31 be resumed and paid into the fund. The board may not use an  
 32 assessment rate greater than twenty-five hundredths of one percent  
 33 (0.25%) above the amount recommended by the study performed  
 34 before the assessment.

35 (d) The board shall enter into a contract with an actuary or another  
 36 qualified firm that has experience in calculating worker's compensation  
 37 liabilities. Not later than September 1 of each year, the actuary or other  
 38 qualified firm shall calculate the recommended funding level of the  
 39 fund based on the previous year's claims and inform the board of the  
 40 results of the calculation. If the amount to the credit of the fund is less  
 41 than the amount required under subsection (c), the board may conduct  
 42 an assessment under subsection (c). The board shall pay the costs of the  
 43 contract under this subsection with money in the fund.

44 (e) An assessment collected under subsection (c) on an employer  
 45 who is not self-insured must be assessed through a surcharge based on  
 46 the employer's premium. An assessment collected under subsection (c)

1 does not constitute an element of loss, but for the purpose of collection  
 2 shall be treated as a separate cost imposed upon insured employers. A  
 3 premium surcharge under this subsection must be collected at the same  
 4 time and in the same manner in which the premium for coverage is  
 5 collected, and must be shown as a separate amount on a premium  
 6 statement. A premium surcharge under this subsection must be  
 7 excluded from the definition of premium for all purposes, including the  
 8 computation of agent commissions or premium taxes. However, an  
 9 insurer may cancel a worker's compensation policy for nonpayment of  
 10 the premium surcharge. A cancellation under this subsection must be  
 11 carried out under the statutes applicable to the nonpayment of  
 12 premiums.

13 (f) The sums shall be paid by the board to the treasurer of state, to  
 14 be deposited in a special account known as the second injury fund. The  
 15 funds are not a part of the general fund of the state. Any balance  
 16 remaining in the account at the end of any fiscal year shall not revert  
 17 to the general fund. The funds shall be used only for the payment of  
 18 awards of compensation and expense of medical examinations or  
 19 treatment made and ordered by the board and chargeable against the  
 20 fund pursuant to this section, and shall be paid for that purpose by the  
 21 treasurer of state upon award or order of the board.

22 (g) If an employee who is entitled to compensation under IC 22-3-2  
 23 through IC 22-3-6 either:

24 (1) exhausts the maximum benefits under section 22 of this  
 25 chapter without having received the full amount of award granted  
 26 to the employee under section 10 of this chapter; or

27 (2) exhausts the employee's benefits under section 10 of this  
 28 chapter;

29 then such employee may apply to the board, who may award the  
 30 employee compensation from the second injury fund established by this  
 31 section, as follows under subsection (h).

32 (h) An employee who has exhausted the employee's maximum  
 33 benefits under section 10 of this chapter may be awarded additional  
 34 compensation equal to sixty-six and two-thirds percent (66 2/3%) of the  
 35 employee's average weekly wage at the time of the employee's injury,  
 36 not to exceed the maximum then applicable under section 22 of this  
 37 chapter, for a period of not to exceed one hundred fifty (150) weeks  
 38 upon competent evidence sufficient to establish:

39 (1) that the employee is totally and permanently disabled from  
 40 causes and conditions of which there are or have been objective  
 41 conditions and symptoms proven that are not within the physical  
 42 or mental control of the employee; and

43 (2) that the employee is unable to support the employee in any  
 44 gainful employment, not associated with rehabilitative or  
 45 vocational therapy.

46 (i) The additional award may be renewed during the employee's total

1 and permanent disability after appropriate hearings by the board for  
2 successive periods not to exceed one hundred fifty (150) weeks each.  
3 The provisions of this section apply only to injuries occurring  
4 subsequent to April 1, 1950, for which awards have been or are in the  
5 future made by the board under section 10 of this chapter. Section 16  
6 of this chapter does not apply to compensation awarded from the  
7 second injury fund under this section.  
8 (j) All insurance carriers subject to an assessment under this section  
9 are required to provide to the board:  
10 (1) not later than January 31 each calendar year; and  
11 (2) not later than thirty (30) days after a change occurs;  
12 the name, address, and electronic mail address of a representative  
13 authorized to receive the notice of an assessment."  
(Reference is to HB 1313 as printed January 30, 2002.)

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Representative Liggett