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Tony Evers, Governor  
Amy Pechacek, Secretary-designee

**Assembly Committee on Labor and Integrated Employment  
Wednesday, January 26, 2022  
11:00 AM  
State Capitol, 300 Northeast**

**Testimony of Department of Workforce Development's Worker's Compensation Division Administrator and Worker's Compensation Advisory Council Chair Steven Peters.**

Thank you, Chair Edming, Vice-Chair VanderMeer, and Committee Members, for having me here today to provide testimony on LRB-5841. I am Steven Peters, Division Administrator in the Department of Workforce Development's (DWD) Worker's Compensation Division. I also serve as the Chair of the Worker's Compensation Advisory Council. On behalf of the Council, I would like to thank you for hearing the Council's agreed-upon bill.

Wisconsin's Worker's Compensation system is over 110 years old and was the first constitutionally valid worker's compensation system in the nation, enshrining the grand compromise between management and labor that ensures support for workers injured on the job while protecting employers from further liability as long as they are insured.

Since 1968, the Wisconsin Worker's Compensation Advisory Council (WCAC) has advised state government on how to best support and strengthen the state's worker's compensation system, which has served as a national model for stability and effectiveness. The WCAC is made up of equal numbers of labor and management with members from the insurance industry joining in an advisory role.

The legislation before you, LRB-5841, is the product of input from stakeholders representing all facets of the worker's compensation community, management, labor, insurers, medical professionals, attorneys, and DWD. The Council also received feedback from a biennial public hearing held in December 2020. After months of negotiations, the WCAC voted unanimously on December 13, 2021 to advance this agreed-upon bill proposing changes to Wisconsin's worker's compensation laws.

Enclosed with DWD's written testimony, I have provided for you a summary of the provisions in the bill. Thank you again opportunity to testify today and for your time and consideration. I am happy to answer any questions from the committee.

## Summary of the Worker's Compensation Advisory Council Bill, LRB-5841

The Worker's Compensation Advisory Council approved the provisions in LRB-5841 for revisions to Wisconsin's worker's compensation (WC) system. The following is a summary of the statutory changes proposed in the bill:

1. The maximum weekly rates for permanent partial disability (PPD) will be increased to \$415 for injuries occurring in 2022 and to \$430 for injuries occurring in 2023.
2. There will no longer be wage expansion for employees who restrict employment to part-time. The average weekly wage will be calculated as the greater of the hourly rate on the date of injury times the number of hours the employee was scheduled to work in the week, or the gross earnings from the employer in the 52 weeks preceding the injury divided by the number of weeks actually worked during the preceding year. The wage will be expanded only when the employee is employed elsewhere, or if the employee was employed less than 12 months before being injured. Wage expansion may be rebutted when there is evidence to show an employee chose to restrict employment to part-time.
3. Provide clarification that individuals who provide services to elderly and disabled people under long-term care programs are considered employees of the entities providing fiscal management services (fiscal agents) for those persons for worker's compensation purposes.
4. The definition of "employer" is amended to clarify that every person who at any time employs three or more employees in Wisconsin is subject to the Wisconsin Worker's Compensation Act on the day on which the person employs three or more employees in this state.
5. Farmers will have the same statutory authority to withdraw from subjectivity to Wis. Stats. Chapter 102 as other employers who had no employee in the previous two years.
6. Employees who appear at examinations directed by employers and WC insurers will be authorized to have an observer present at the examination.
7. WC will be provided with statutory authority to promulgate administrative rules that are necessary to carry out its duties and functions.
8. WC will be provided statutory authority to conduct alternative dispute resolution activities to resolve disputed worker's compensation cases.
9. The license to appear process for non-attorney advocates will be transferred to the Department of Administration-Division of Hearings and Appeals.
10. WC will be authorized to provide limited worker's compensation information from records to the Department of Health Services or a county department of social services. The information will be limited to the name and address of an employee, name and address of the employee's employer, and any financial information about the employee in the record.
11. The Uninsured Employer Fund will receive the same distribution of proceeds from third-party settlements as WC insurers and self-insured employers.

# WMC

Wisconsin's Chamber

TO: Members, Assembly Labor and Integrated Employment Committee

FROM: Rachel Ver Velde, Director of Workforce, Education and Employment Policy

RE: Worker's Compensation Reform Bill – LRB 5841

DATE: January 26, 2022

Wisconsin Manufacturers and Commerce (WMC) **supports** the introduction and adoption of the Worker's Compensation Reform Bill – LRB 5841.

This bill is the product of lengthy discussion, analysis and negotiation by the Worker's Compensation Advisory Council. The Council, which is composed of five labor and five management representatives, was created when the original worker's compensation law was enacted in 1911. The concept was to have the main parties at interest negotiate any changes in the law in an effort to avoid wide swings in policy that might result if one side or the other had a political advantage.

This is consistent with the original bargain of worker's compensation where workers gave up the right to sue their employer over work related injuries in exchange for a no-fault system of benefits.

The proposals before you represent a modest set of reforms designed to address a couple of the most important issues along with a handful of technical corrections. Specifically, the bill would:

- Increase the cap on the maximum amount of weekly permanent partial disability benefits a claimant may receive;
- Curtail most instances of wage expansion where a part time employee's wages are increased to full time for the purposes of calculating benefits;
- Allow an observer to be present during an employer requested medical exam;
- Harmonize the treatment of third-party claims between cases involving a fully insured employer with those involving an uninsured employer;
- Clarify the circumstances under which an employer becomes subject to the worker's compensation law and when farm employers are deemed to have withdrawn from coverage;
- Clarify that the responsibility for providing worker's compensation coverage for long term care employees lies with the entity that is responsible for the financial management of the employee;

- Allow the State Department of Health Services and a county social or health service agency to access limited information about worker compensation claimants;
- Grant explicit rule making authority to DWD for worker's compensation;
- Expressly provide for alternative dispute resolution;
- Transfer authority from DWD to the Division of Hearings and Appeals for the granting of licenses for non-attorneys to appear in worker's compensation cases.

We respectfully urge introduction and adoption of the "agreed on" worker's compensation bill.



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Wisconsin Compensation Rating Bureau  
20700 Suite 100  
Waukesha, Wisconsin 53218

January 24, 2022

To Whom it May Concern:

We were asked to provide input regarding the rate impact that might be realized if the following two specific proposals were implemented.

Proposal #1:

Increasing the Maximum PPD rate from \$362 to \$415.

If the change is made on April 1, 2022, the premium impact will be an increase of 1.2% in overall rates.

If the change is made on June 1, 2022, the premium impact will be an increase of 0.9% in overall rates.

Proposal #2

The part-time wage rules would change the calculation of the wage for part-time workers, keeping it at 24 hours a week in most cases. This would reduce the TTD and PPD benefit rate whenever the hours aren't escalated to 40 hours a week.

Calculating the premium impact for this change is nearly impossible. However, based on knowledge gained from the Bureau of Labor and Statistics, combined with our educated guess about the types of employers/employees affected, it is our belief that the impact on will be minimal and in the area of a 1% decrease in overall rates.

Best Regards,

Bernard Rosauer  
President  
Wisconsin Compensation Rating Bureau  
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## MEMORANDUM

**TO:** Tyler Clark, office of Speaker Robin Vos  
**FROM:** Michael Duchek, senior legislative attorney  
**DATE:** January 25, 2022  
**SUBJECT:** 2021 LRB-5841/1 and 2021 LRB-5585/1

You asked for a brief memo comparing what is contained in 2021 LRB-5841/1 and 2021 LRB-5585/1 to the proposals approved by the Council on Worker's Compensation (WCAC) and the Council on Unemployment Insurance (UIAC), respectively.

**2021 LRB-5841/1:** Last November,<sup>1</sup> the WCAC approved a number of proposals as its bill package for this session, including a number of proposals from the Department of Workforce Development, as well as other proposals. 2021 LRB-5841/1 contains all of these proposals, with the exception of one DWD proposal. LRB-5841 excludes a nonstatutory, fiscal change provision that would provide an appropriation increase to fund a 0.2 FTE position increase in DWD's Worker's Compensation Division.

**2021 LRB-5585/1:** Last August,<sup>2</sup> the UIAC approved 10 department proposals as its bill package for this session. 2021 LRB-5585/1 contains eight of these proposals in their entirety (proposals D21-03, D21-04, D21-05, D21-06, D21-07, D21-08, D21-11, and D21-15). LRB-5585 excludes 1) proposal D21-01, which would require the establishment of a state segregated fund that would receive certain moneys under the UI law that are not designated for another fund and 2) portions of D21-02, which is a "technical corrections" proposal developed between DWD and LRB to revise and modernize various UI provisions in Wis. Stat. chs. 20 and 108, including changes to appropriations to DWD and the Labor and Industry Review Commission. The parts of proposal D21-02 that could stand alone as technical corrections were included in LRB-5585, while the ones that were related to or overlapped with the aforementioned appropriations changes were omitted from that draft.

Please let me know if I can provide further information.

<sup>1</sup> See the Worker's Compensation Advisory Council [draft meeting minutes](https://publicmeetings.wi.gov), November 17, 2021, <https://publicmeetings.wi.gov>.

<sup>2</sup> See the Unemployment Insurance Advisory Council draft meeting minutes in [meeting documents](https://dwd.wisconsin.gov), September 16, 2021, <https://dwd.wisconsin.gov>.