

Fiscal Estimate Narratives

DWD 2/23/2010

LRB Number 09-3173/2	Introduction Number AB-0706	Estimate Type Original
Description Various changes to the worker's compensation law		

Assumptions Used in Arriving at Fiscal Estimate

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NOTE: NO ACTION IS NEEDED AT THIS TIME IN THE ESTIMATION OF WORKER'S COMPENSATION DIVISION MANAGEMENT OR THE WORKER'S COMPENSATION ADVISORY COUNCIL TO INCREASE EXISTING REVENUES COMING INTO THE WORK INJURY SUPPLEMENTAL BENEFITS FUND. SUFFICIENT CASH BALANCES (\$10.2 million) EXIST TO FUND ANY INCREASED PAYOUTS FROM THE FUND RELATED TO THE PROPOSED INCREASE IN SUPPLEMENTAL BENEFITS EXPECTED TO BE PAID OUT DURING THE NEXT TWO-YEAR CYCLE. THE SOLVENCY OF THE FUND WILL BE MONITORED AND ANALYZED OVER THIS TWO-YEAR PERIOD, AND ANY PROPOSAL FOR INCREASING REVENUE TO THE FUND WILL BE MADE AT THE END OF THAT PERIOD IF NECESSARY. REVENUES TO THE FUND – INCLUDING ANY PROPOSED INCREASES – COME FROM ASSESSMENTS TO INSURANCE COMPANIES AND SELF-INSURED EMPLOYERS, AND NOT FROM STATE FUNDS.

This bill makes various changes to the worker's compensation laws as administered by the Worker's Compensation Division of the Department of Workforce Development (DWD). The law changes and fiscal effects are as follows:

1. Emergency Responders Performing Services. Volunteer fire fighters, first responders, emergency medical technicians, rescue squad members and diving team members are covered under ch. 102, Stats., from the time of being paged or called, including travel to fire station/ambulance garage etc., to location of fire or emergency and return, except for deviations for private and personal purposes. s. 102.03 (1) (c) 2.

No significant fiscal impact is anticipated for this change.

2. Definition of Employer. This amendment will add the territorial limitation that the services of three or more employees must be performed in Wisconsin to make the employer subject to ch. 102, Stats. s. 102.04 (1) (b) 1.

No fiscal impact to the state or local units of government is anticipated for this change.

3. Permanent Partial Disability. The maximum weekly benefit rates for permanent partial disability (PPD) are increased to \$292 for injuries occurring before January 1, 2011 and to \$302 for injuries occurring on and after January 1, 2011. s. 102.11 (1).

Increased costs for this change are paid for by insurers and self-insured employers. Changes to this rate have been made on a regular basis in the past. No significant fiscal impact to the state or local units of government is anticipated for this change.

4. Written Notice for Bad Faith Claims. The party that makes a claim for bad faith is required to give written notice stating with reasonable specificity the basis for the claim to the employer, insurance carrier and the Department before a hearing will be scheduled. s. 102.17 (1) (a) 3.

No fiscal impact to the state or local units of government is anticipated for this change.

5. Notice of Insurance Cancellation or Termination. The Worker's Compensation Division and Wisconsin Compensation Rating Bureau may require insurance carriers to provide employers with notice of cancellation, termination or non renewal of worker's compensation insurance policies by electronic means only. s. 102.31 (2) (a).

No fiscal impact anticipated.

6. Pharmacy Fee Disputes. Insurance carriers and self-insured employers are required to provide notice in writing to pharmacists or practitioner that the reasonableness of charge is in dispute. s. 102.425 (4m) (b).

No fiscal impact to the state or local units of government is anticipated for this change.

7. Suspension of Temporary Disability. Compensation for temporary disability will be suspended for employees who have been convicted of a crime, are incarcerated, and are not available to return to work during the hearing period. s. 102.43 (9) (d).

No fiscal impact to the state or local units of government is anticipated for this change.

8. Supplemental Benefits. Supplemental benefits will be extended to injured workers who became permanently and totally disabled prior to 2001 and the maximum weekly benefit rate will be increased from \$450 to \$582.

Under current law, injured workers who are receiving weekly benefits for permanent total disability or continuous temporary total disability resulting from an injury that occurred before January 1, 1993, are entitled to receive supplemental benefits that would give them the same proportional amount to the maximum rate in 1993 that they had in the year they were injured. The amount of weekly supplemental benefits, when added to their original weekly benefit, is limited to the 1993 maximum of \$450/week. This bill makes these and additional employees who were injured between January 1, 1993 and December 31, 2000, eligible for supplemental benefits beginning on the effective date of the bill and increases the weekly limit of supplemental plus regular benefits to the maximum of \$582/week. It is estimated the bill will increase the number of claimants eligible to receive these benefits by approximately 195 claimants. The increase in supplemental benefits is estimated to be approximately \$3.45M out of \$5.46M paid in total supplements paid in the first "year" (estimated at 39 weeks because of an approximate start date of April 1, 2010). The second year (52 weeks starting January 1, 2011) increase will be approximately \$4.6M out of \$7.28M total supplements paid. This amount is expected to decrease at a rate of approximately \$200,000 to \$250,000 per year (full 52 weeks) due to the death of some recipients.

Of the \$3.45M first "year" increase, approximately \$2.96M represents increases in benefits to 445 claimants already receiving some supplemental benefits. The remaining amount (\$491,000) reflects payments to the 195 claimants first becoming eligible for supplemental benefits in calendar 2010 per this bill.

The current cash balance in the WISBF is approximately \$10.2 million. Once reimbursement of supplemental benefits begins in 2011, it is anticipated that revenues will not keep up with expenditures and the WISBF cash balance will begin to decrease by an estimated \$2.4 million the first year. It is anticipated that by July 1, 2011 when WISBF reimbursements for the bill's supplemental benefit increases have been completed, the cash balance in the WISBF will decrease to approximately \$7.5M. In addition, it is anticipated that WISBF revenues from surcharges and settlements are expected to decrease to some extent and interest earned on the fund's cash balance will also decrease after July of 2011 because of the lower fund balance. The anticipated drop after the first year assumes all other revenues and expenditures remain relatively constant. The number of permanent total disability recipients currently receiving supplements will decline over time and this will result in declining expenditures unless there are further supplemental increases authorized. The department's Worker's Compensation Division and the Worker's Compensation Advisory Council are aware that the funds balance will decline dramatically over the next two years with these increases and will address the revenue needs of the WISBF before the next two-year cycle to initiate the actions to insure ongoing solvency of the fund.

9. Social Security Reverse Offset. The Social Security Reverse offset will not apply to compensation payable for vocational rehabilitation retraining. s. 102.44 (5).

No significant fiscal impact anticipated

10. Burial Expense. Burial expense will be the lesser of the actual charge up to a maximum of \$10,000. s. 102.50.

This is an increase of \$4000 over the previous maximum. For private employers, this cost will be covered by premium adjustments and risk management for self-insured employers.

11. Occupational hearing Loss. Liability is eliminated for expense of examination or test, treatment for

hearing loss, evaluation of examination or testing, medical treatment for hearing loss, restoring hearing or hearing aids for occupational hearing loss claims that do not reach the level of hearing loss to qualify for indemnity. This amendment applies to claims made after January 1, 2012. s. 102.555 (12). Potential risk for state employee fatalities could be about \$16000 per year; for local government employees, about \$44000 per year.

No fiscal impact is anticipated for this change.

12. Illegal Employment of Minors. This amendment eliminates language for employers to pay additional compensation for wage loss. s. 102.60 (1m) and (6).

No fiscal impact.

13. Annual Assessment. Interest on payments for assessments begins to accrue when assessments are not paid within 30 days rather than 90 days to synchronize payments with the Department of Workforce Development's accounting system. s. 102.75 (2).

No fiscal impact.

14. Uninsured Employers Fund. The Department will be permitted to waive payments owed by uninsured employers for any benefits or claim costs paid by the UEF when the Department determines that the employer was a victim of fraud, misrepresentation, or gross negligence by an insurance agent or insurance broker. s. 102.82 (ar).

No fiscal impact is anticipated for this change. This will be a benefit to small businesses.

Long-Range Fiscal Implications

With regard to the Work Injury Supplemental Benefits Fund (#8., above), the statutory Worker's Compensation Advisory Council may seek increases to supplemental benefits in future years. The WC Division and the Council will review on an ongoing basis the revenue needs of the WISBF and take necessary action to insure the solvency of the fund.

Fiscal Estimate Worksheet - 2009 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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Description Various changes to the worker's compensation law			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): None			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes (FTE Position Changes)	\$		\$
State Operations - Other Costs	16,000		
Local Assistance			
Aids to Individuals or Organizations	3,450,000		
TOTAL State Costs by Category	\$3,466,000		\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S (WISBF App. 178)	3,466,000		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
	Increased Rev	Decreased Rev	
GPR Taxes	\$		\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues	\$		\$
NET ANNUALIZED FISCAL IMPACT			
	State	Local	
NET CHANGE IN COSTS	\$3,466,000		\$44,000
NET CHANGE IN REVENUE	\$		\$
Agency/Prepared By		Authorized Signature	
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		Date	
		2/23/2010	