

### Fiscal Estimate - 2011 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> 11-3926/1	<b>Introduction Number</b> SB-409
<b>Description</b> Various changes to the worker's compensation law, granting rule-making authority, and making an appropriation	
<b>Fiscal Effect</b>	
<b>State:</b>	
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate	
<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues
<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs	
<b>Local:</b>	
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate	
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b>	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS 169, 174, 177, 178	
<b>Affected Ch. 20 Appropriations</b>	
<b>Agency/Prepared By</b>	<b>Authorized Signature</b>
DWD/ Jim O'Malley (608) 266-0331	Georgia Maxwell (608) 266-2284
<b>Date</b>	
2/7/2012	

## Fiscal Estimate Narratives

DWD 2/7/2012

LRB Number	11-3926/1	Introduction Number	SB-409	Estimate Type	Original
<b>Description</b> Various changes to the worker's compensation law, granting rule-making authority, and making an appropriation					

### Assumptions Used in Arriving at Fiscal Estimate

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Note: No action is needed at this time based on the estimation of the Worker's Compensation Division Management and the Worker's Compensation Advisory Council to increase existing revenues into the Work Injury Supplemental Benefit Fund. Sufficient balances exist to fund existing benefit programs and over the next two (2) year cycle. The solvency of the fund will be monitored and analyzed over the next two (2) year period, and any proposal for increasing revenues will be made at the end of that period, if necessary. Revenues to the fund primarily come from assessments to worker's compensation insurance carriers 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:

I. Permanent Partial Disability. The maximum weekly benefit rates for permanent partial disability (PPD) are increased to \$312 for injuries occurring on or after the effective date of the bill and before January 1, 2013, and to \$322 for injuries occurring on and after January 1, 2013. The maximum weekly PPD benefit rate will be set at \$317 for injuries on and after January 1, 2013 if the audit of the certified data does not begin within six (6) months after the effective date of the bill.

Increased costs for this change are paid by worker's compensation insurance carriers and self-insured employers. Changes to permanent partial disability benefit rates 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.

II. Final Reports From Treating Practitioners. Worker's compensation insurance carriers and self-insured employers will be required to file a final treating practitioner's report with the Department when an employee sustains an eye injury requiring treatment on three (3) or more occasions outside of the employer's premises. A final treating practitioner's report will not be required in cases where there are uncontested denials of liability.

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

III. Certified Data Bases. The formula amount for resolving reasonableness of health care service fee disputes will be reduced from 1.4 standard deviations to 1.2 standard deviations above the mean. The formula amount will be set at 1.3 standard deviations above the mean on January 1, 2013 if the Department does not commence an audit of the certified data bases within six (6) months after the effective date of the bill.

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

IV. Statute of Limitations. Payments for treatment or burial expense will have no affect on the statute of limitations for claims based on occupational diseases.

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

V. Interest on Surcharges. Interest will accrue when surcharges are not paid within 30 days.

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

VI. Compensation for Retraining. There will be no reduction in compensation for vocational rehabilitation training based on wages earned by employees working part-time for the first 24 hours of employment during periods of retraining, and employees will be required to report wages earned from that part-time employment to insurance carriers and self-insured employers. There will be a two (2) year sunset for this provision.

Increased costs for this change are paid by worker's compensation insurance carriers and self-insured employers. No significant fiscal impact to the state or units of local government is anticipated by this change.

VII. Disfigurement. Compensation for disfigurement will be paid only for cases where the employee sustains an actual wage loss.

No fiscal impact to the state or units of local government.

VIII. Vocational Rehabilitation Training. Insurance carriers and self-insured employers will be liable for the reasonable costs of the retraining program including the cost of tuition, fees and books in cases where the Division of Vocational Rehabilitation provides services for the rehabilitative training program.

Increased costs for this change are paid by worker's compensation insurance carriers and self-insured employers. No significant fiscal impact to the state or units of local government is anticipated by this change.

IX. Certified Data Base Audit. A committee will be created to determine the scope of an audit of the data bases certified by the Department that are used for resolving reasonableness of fee disputes. The audit is to commence within six (6) months of the effective date of the bill. If the audit is not begun within six (6) months of the effective date of the bill beginning January 1, 2013 the formula amount will be set at 1.3 standard deviations above the mean and the increase for the weekly maximum permanent partial disability rate will be \$317 for injuries occurring on and after that date.

The fiscal impact to the state for this amendment will be the cost for the audit. The cost for the audit is estimated to be \$100,000. Funding for the audit will be from the Worker's Compensation Division's operations budget. There will be no fiscal impact for units of local government.

X. Work Injury Supplemental Benefit Fund (WISBF). The following changes will be made to the WISBF:

1. The WISBF will be liable for payment of benefits and treatment expense for the specified barred traumatic injuries for claims where the applicable statute of limitations will expire before April 1, 2018.
2. The WISBF will be authorized to share in the distribution of proceeds from third party settlements.
3. Insurance carriers and self-insured employers will have 12 months to claim reimbursement from the Worker's Compensation Division for supplemental benefit payments to employees.
4. Employees will be limited to only one (1) claim from the Second Injury Fund.
5. The Worker's Compensation Division will be authorized to retain the Department of Administration to handle claims involving the WISBF.
6. The Worker's Compensation Division will be authorized to prioritize, decrease or cease payments from the WISBF if the fund becomes encumbered more than 85% by known claims.

Under current law the WISBF provides supplemental worker's compensation payments to employees with permanent total disability, additional death benefits to children of deceased employees, additional worker's compensation to employees with permanent partial disability who incur further permanent disability, and otherwise meritorious claims based on occupational diseases barred by the applicable statute of limitations. Revenue to fund the WISBF is received primarily from assessments on worker's compensation insurance carriers and self-insured employers based on claims involving death and dismemberments. Other revenue is from surcharges, penalties resulting from illegal employment of minors, interest and settlement proceeds obtained through the Office of the Commissioner of Insurance.

The balance in the WISBF at the end of FY 11 was approximately \$8.9 million. Revenue into the fund for FY 11 was approximately \$3.9 million. Expenditures paid from the WISBF in FY 11 were approximately \$2.7 million.

It is anticipated that revenue to the WISBF will not keep up with expenditures. This is primarily due to the costs for reimbursement of supplemental benefit payments to worker's compensation insurance carriers and self-insured employers. It is anticipated that by July 1, 2013 the cash balance in the WISBF will be approximately \$ 4 million. In addition it is anticipated that revenues from surcharges and settlements are expected to decrease to some extent, and interest earned on the WISBF's cash balance will also decrease

due to lower fund balance. The number of permanent total disability recipients currently receiving supplemental benefits will decline and this will decrease the reimbursement for supplemental benefits.

The fiscal impact to the WISBF for the change in # 1 will be costs of approximately \$1.5 million per year.

For the change in # 2 no significant fiscal impact to the state is anticipated. There is no fiscal impact to units of local government.

No fiscal impact to the state or units of local governments for the change in # 3.

For the change in # 4 limited fiscal impact to the state is anticipated. The change will prevent employees from making multiple claims from the Second Injury Fund. There is no fiscal impact to units of local government.

The fiscal impact to the WISBF for the change in # 5 is anticipated to be costs of \$75,000 per year to retain the Department of Administration to handle claims. There will be no fiscal impact to units of local governments.

For the change in # 6 limited fiscal impact to the state is anticipated. The purpose for this amendment is to provide the WISBF with a standardized process to allocate funds in a fair and equitable manner. There is no fiscal impact to units of local government.

### **Long-Range Fiscal Implications**

The Worker's Compensation Division and the Worker's Compensation Advisory Council will review the revenue needs of the Work Injury Supplemental Benefit Fund on an ongoing basis and take action that is necessary to insure the solvency of the fund and that expenditures are made in a fair and equitable manner.

## Fiscal Estimate Worksheet - 2011 Session

Detailed Estimate of Annual Fiscal Effect

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> 11-3926/1		<b>Introduction Number</b> SB-409	
<b>Description</b> Various changes to the worker's compensation law, granting rule-making authority, and making an appropriation			
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b>  The cost to the state for an audit of the data bases certified by the Department of Workforce Development is estimated at \$100,000.			
<b>II. Annualized Costs:</b>		<b>Annualized Fiscal Impact on funds from:</b>	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes	\$		\$
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations	1,575,000		
<b>TOTAL State Costs by Category</b>	<b>\$1,575,000</b>		<b>\$</b>
<b>B. State Costs by Source of Funds</b>			
GPR			
FED			
PRO/PRS			
SEG/SEG-S ((WISBF App. 178))	1,575,000		
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>			
	Increased Rev	Decreased Rev	
GPR Taxes	\$		\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
<b>TOTAL State Revenues</b>	<b>\$</b>		<b>\$</b>
<b>NET ANNUALIZED FISCAL IMPACT</b>			
	<u>State</u>	<u>Local</u>	
NET CHANGE IN COSTS	\$1,575,000		\$
NET CHANGE IN REVENUE	\$		\$
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
DWD/ Jim O'Malley (608) 266-0331		Georgia Maxwell (608) 266-2284	2/7/2012