

**2015 DRAFTING REQUEST**

**Bill**

Received: 12/15/2014 Received By: gmalaise  
Wanted: As time permits Same as LRB:  
For: Administration-Budget 6-8219 By/Representing: Kirschbaum  
May Contact: Drafter: gmalaise  
Subject: Employ Priv - worker's comp Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email:  
Carbon copy (CC) to: sbostatlanguage@webapps.wi.gov

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**Pre Topic:**

DOA:.....Kirschbaum, BB0297 -

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**Topic:**

Worker's compensation coverage for postsecondary students

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 12/15/2014	eweiss 12/16/2014		_____			
/P1			rschluet 12/16/2014	_____	lparisi 12/16/2014		State S&L

FE Sent For:

<END>

**2015 DRAFTING REQUEST**

**Bill**

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Wanted: As time permits Same as LRB:  
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Subject: Employ Priv - worker's comp Addl. Drafters:  
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DOA:.....Kirschbaum, BB0297 -

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**Topic:**

Worker's compensation coverage for postsecondary students ✓

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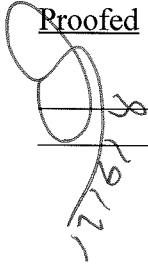
**Instructions:**

See attached

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FE Sent For:

<END>

## Malaise, Gordon

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**From:** Hanaman, Cathlene  
**Sent:** Monday, December 15, 2014 11:12 AM  
**To:** Malaise, Gordon; Duchek, Michael  
**Subject:** FW: Statutory Language Drafting Request - BB0297

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**From:** Bryan.Kirschbaum@wisconsin.gov [mailto:Bryan.Kirschbaum@wisconsin.gov]  
**Sent:** Monday, December 15, 2014 11:11 AM  
**To:** Hanaman, Cathlene  
**Cc:** Hynek, Sara - DOA; Kirschbaum, Bryan W - DOA; Connor, Christopher B - DOA  
**Subject:** Statutory Language Drafting Request - BB0297

Biennial Budget: 2015-17

DOA Tracking Code: BB0297

Topic: Extend Workers Compensation Coverage for Post Secondary Institutions

SBO Team: EWD

SBO Analyst: Kirschbaum, Bryan  
Phone: 608-266-8219  
E-mail: [Bryan.Kirschbaum@wisconsin.gov](mailto:Bryan.Kirschbaum@wisconsin.gov)

Agency Acronym: DWD

Agency Number: 445

Priority: High

Intent:

Request to allow post secondary educational institutions to extend WC coverage to students off site (same language as in SB 550).

Attachments: False

Please send completed drafts to [SBOStatlanguage@webapps.wi.gov](mailto:SBOStatlanguage@webapps.wi.gov)



State of Wisconsin  
2015 - 2016 LEGISLATURE

GMM  
LRB-0921/? (P1)  
emw

BBO297

(X)

\* DOA:.....Kirschbaum - Worker's compensation coverage for postsecondary students

**FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION**

LPS: Request sheet updated.

S.A. ✓  
Xref ✓

Don't Gen.

the budget.

1 AN ACT ...; relating to: ???

Insert A

*Analysis by the Legislative Reference Bureau*

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2  
Insert  
1-2

(END)

**SENATE BILL 550**

*the budget*

- 1 102.44 (1m), 102.44 (4) (b), 102.44 (4m), 102.445, 102.75 (1g), 102.80 (1) (f) and
- 2 102.81 (1) (c) of the statutes; ~~relating to: various changes to the worker's~~
- 3 ~~compensation law, granting rule-making authority, and making an~~
- 4 ~~appropriation.~~

***Analysis by the Legislative Reference Bureau***

~~This bill makes various changes to the worker's compensation law, as administered by the Department of Workforce Development (DWD).~~

**GENERAL COVERAGE**

***Local governmental units***

~~Under current law, each county, city, town, village, school district, sewer district, drainage district, long-term care district, and other public or quasi-public corporation (municipality) is liable for worker's compensation when an employee in the service of the municipality, whether elected, appointed, or under a contract of hire, is injured while performing services growing out of and incidental to his or her employment.~~

~~This bill changes the term "municipality" to "local governmental unit" for purposes of the worker's compensation law and redefines that term to mean a political subdivision of this state; a special purpose district or taxing jurisdiction in this state; an instrumentality, corporation, combination, or subunit of any of the foregoing; or any other public or quasi-public corporation. Under current law, cities, villages, towns, and counties are political subdivisions of this state; special purpose districts include school districts, sewer districts, drainage districts, long-term care districts, and other districts created for special purposes; and taxing jurisdictions are entities, not including the state, that are authorized by law to levy property taxes.~~

***Postsecondary students participating in work study programs***

Currently, a student of a public school or a private school, while he or she is engaged in performing services as part of a school work training, work experience, or work study program, who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of a school district or private school that elects to name the student as an employee for purposes of worker's compensation coverage. Also, under current law, a student who is named as an employee of a school district or private school for purposes of worker's compensation coverage and who makes a claim for worker's compensation against his or her school district or private school may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose.

This bill extends those provisions to a student of an institution within the University of Wisconsin System, a technical college, a tribally controlled college controlled by an Indian tribe that has elected to become subject to the worker's

*(HEAD)  
EMPLOY-  
MENT*

*Insert  
A*

**SENATE BILL 550**

*of higher education*

*Insert A*  
compensation law, a school approved by the Educational Approval Board, or a private, nonprofit institution of higher education located in this state (institution of higher education). Specifically, under the bill, a student of an institution of higher education, while he or she is engaged in performing services as part of a school work training, work experience, or work study program, who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of an institution of higher education that elects to name the student as an employee for purposes of worker's compensation coverage. The bill also provides that a student who is named as an employee of an institution of higher education for purposes of worker's compensation coverage and who makes a claim for worker's compensation against that institution may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose.

*[end of insert A]*

*\* FE-SL*

**PAYMENT OF BENEFITS**

***Maximum weekly compensation for permanent partial disability***

Under current law, permanent partial disability benefits are subject to maximum weekly compensation rates specified by statute. Currently, the maximum weekly compensation rate for permanent partial disability is \$322. This bill increases that maximum weekly compensation rate to \$337 for injuries occurring before January 1, 2015, and to \$352 for injuries occurring on or after that date.

***Supplemental benefits***

Under current law, an injured employee who is receiving the maximum weekly benefit in effect at the time of the injury for permanent total disability or continuous temporary total disability resulting from an injury that occurred before January 1, 2001, is entitled to receive supplemental benefits in an amount that, when added to the employee's regular benefits, equals \$582. Those supplemental benefits are payable in the first instance by the employer or insurer, but the employer or insurer then is entitled to reimbursement for those supplemental benefits paid from the work injury supplemental benefit (WISB) fund, which is a fund that, among other things, is used to pay supplemental worker's compensation to injured employees with permanent total disability.

This bill makes an employee who is injured prior to January 1, 2003, eligible for those supplemental benefits beginning on the effective date of the bill and increases the maximum supplemental benefit amount for a week of disability occurring after the effective date of the bill to an amount that, when added to the employee's regular benefits, equals \$669.

The bill also terminates reimbursement from the WISB fund for supplemental benefits paid by employers or insurers beginning on the effective date of the bill. For supplemental benefits paid by an insurer for an injury that occurs before July 1, 2015, the bill provides that reimbursement of those benefits is from the worker's compensation operations fund and not from the WISB fund. To fund that reimbursement, the bill requires DWD to collect from each licensed worker's compensation carrier the proportion of reimbursement approved by DWD for

SENATE BILL 550

Insert 1-2

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~~team. Every member of a company, department, squad, or team described in this paragraph, while serving as an auxiliary police officer at an emergency, is also considered to be an employee of that company, department, squad, or team. If a company, department, squad, or team described in this paragraph has not insured its liability for compensation to its employees, the municipality or county political subdivision within which that company, department, squad, or team was organized shall be liable for that compensation.~~

**SECTION 11.** 102.07 (10) of the statutes is amended to read:

~~102.07 (10) Further to effectuate the policy of the state that the benefits of this chapter shall extend and be granted to employees in the service of the state, or of any municipality therein local governmental unit in this state, on the same basis, in the same manner, under the same conditions, and with like right of recovery as in the case of employees of persons, firms, or private corporations, any question whether any person is an employee under this chapter shall be governed by and determined under the same standards, considerations, and rules of decision in all cases under subs. (1) to (9). Any statutes, ordinances, or administrative regulations which statute, ordinance, or rule that may be otherwise applicable to the classes of employees enumerated in sub. (1) shall not be controlling in deciding whether any person is an employee for the purposes of this chapter.~~

**SECTION 12.** 102.07 (12m) of the statutes is renumbered 102.07 (12m) (b) and amended to read:

102.07 (12m) (b) A student of a public school, as described in s. 115.01 (1), or a private school, as defined in s. 115.001 (3r), or an institution of higher education, while he or she is engaged in performing services as part of a school work training, work experience, or work study program, and who is not on the payroll of an employer

## SENATE BILL 550

Insert 1-2 cont.

1 that is providing the work training or work experience or who is not otherwise  
 2 receiving compensation on which a worker's compensation carrier could assess  
 3 premiums on that employer, is an employee of a school district ~~or~~, private school, or  
 4 institution of higher education that elects under s. 102.077 to name the student as  
 5 its employee.

6 **SECTION 13.** <sup>#</sup> 102.07 (12m) (a) <sup>x</sup> of the statutes is created to read:

7 102.07 (12m) (a) In this subsection:

8 1. "Institution of higher education" means an institution within the University  
 9 of Wisconsin System, a technical college, a tribally controlled college controlled by  
 10 an Indian tribe that has elected under s. 102.05 (2) to become subject to this chapter,  
 11 a school approved under s. 38.50, or a private, nonprofit institution of higher  
 12 education located in this state.

13 2. "Private school" has the meaning given in s. 115.001 (3r).

14 3. "Public school" means a school described in s. 115.01 (1).

15 **SECTION 14.** <sup>#</sup> 102.077 (1) <sup>x</sup> of the statutes is amended to read:

16 102.077 (1) A school district ~~or a~~, private school, ~~as defined in s. 115.001 (3r),~~  
 17 or institution of higher education may elect to name as its employee for purposes of  
 18 this chapter a student described in s. 102.07 (12m) (b) by an endorsement on its policy  
 19 of worker's compensation insurance or, if the school district ~~or~~, private school, or  
 20 institution of higher education is exempt from the duty to insure under s. 102.28 (2)  
 21 (a), by filing a declaration with the department in the manner provided in s. 102.31  
 22 (2) (a) naming the student as an employee of the school district ~~or~~, private school, or  
 23 institution of higher education for purposes of this chapter. A declaration under this  
 24 subsection shall list the name of the student to be covered under this chapter, the  
 25 name and address of the employer that is providing the work training or work



SENATE BILL 550

SECTION 14

fact 1.2 cont.

1 experience for that student, and the title, if any, of the work training, work  
2 experience, or work study program in which the student is participating.

3 <sup>#</sup> <sup>X</sup>  
SECTION 15. 102.077 (2) of the statutes is amended to read:

4 102.077 (2) A school district ~~or~~, private school, or institution of higher  
5 education may revoke a declaration under sub. (1) by providing written notice to the  
6 department in the manner provided in s. 102.31 (2) (a), the student, and the employer  
7 who is providing the work training or work experience for that student. A revocation  
8 under this subsection is effective 30 days after the department receives notice of that  
9 revocation.

10 SECTION 16. 102.11 (1) ~~(intro.)~~ of the statutes is amended to read:

11 102.11 (1) (intro.) The average weekly earnings for temporary disability,  
12 permanent total disability, or death benefits for injury in each calendar year on or  
13 after January 1, 1982, shall be not less than \$30 nor more than the wage rate that  
14 results in a maximum compensation rate of 110 percent of the state's average weekly  
15 earnings as determined under s. 108.05 as of June 30 of the previous year. The  
16 average weekly earnings for permanent partial disability shall be not less than \$30  
17 and, for permanent partial disability for injuries occurring on or after April 17, 2012,  
18 ~~and before January 1, 2013, not more than \$468, resulting in a maximum~~  
19 ~~compensation rate of \$312, and, for permanent partial disability for injuries~~  
20 ~~occurring on or after January 1, 2013, not more than \$483, resulting in a maximum~~  
21 ~~compensation rate of \$322, except as provided in 2011 Wisconsin Act 183, section 30~~  
22 (2) (a) 1 the effective date of this subsection .... [LRB inserts date], and before January  
23 1, 2015, not more than \$506, resulting in a maximum compensation rate of \$337, and,  
24 for permanent partial disability for injuries occurring on or after January 1, 2015,

## SENATE BILL 550

Final 1-2 conf.

1 under ch. 108. ~~If the or, if an exempt employer is not covered under ch. 108, then the~~  
 2 ~~department shall determine on the basis of the comparable gross payroll for the~~  
 3 ~~exempt employer as determined by the department. If payment of any assessment~~  
 4 ~~made under this subsection subd. 1. is not made within 30 days of after the date of~~  
 5 ~~the order of the department, the attorney general may appear on behalf of the state~~  
 6 ~~to collect the assessment.~~

7 **SECTION 44.** 102.28 (7) (bm) of the statutes is created to read:

8 102.28 (7) (bm) The department may not do any of the following:

9 1. Require an employer that elects under sub. (2) (bm) to self-insure its liability  
 10 for the payment of compensation under this chapter to pay into the fund established  
 11 under sub. (8).

12 2. Make any payments from the fund established under sub. (8) for the liability  
 13 under this chapter of an employer that elects under sub. (2) (bm) to self-insure its  
 14 liability for the payment of compensation under this chapter, whether currently or  
 15 formerly exempt from the duty to insure under sub. (2) (a).

16 **SECTION 45.** 102.29 (1) (b) 2. of the statutes is amended to read:

17 102.29 (1) (b) 2. Out of the balance remaining after the deduction and payment  
 18 specified in subd. 1., the employer, the insurance carrier, or, if applicable, the  
 19 uninsured employers fund or the work injury supplemental benefit fund shall be  
 20 reimbursed for all payments made by the employer, insurance carrier, or  
 21 department, or which the employer, insurance carrier, or department may be  
 22 obligated to make in the future, under this chapter, except that the employer,  
 23 insurance carrier, or department shall not be reimbursed for any payments made or  
 24 to be made under s. 102.18 (1) (b) 3. or (bp), 102.22, 102.35 (3), 102.57, or 102.60.

25 **SECTION 46.** 102.29 (8) of the statutes is amended to read:

**SENATE BILL 550**

**SECTION 46**

*Insert 1-2 done.*

1           102.29 (8) No student of a public school, as described in s. 115.01 (1), or a private  
2 school, as defined in s. 115.001 (3r), or an institution of higher education who is  
3 named under s. 102.077 as an employee of the school district or, private school, or  
4 institution of higher education for purposes of this chapter and who makes a claim  
5 for compensation under this chapter may make a claim or maintain an action in tort  
6 against the employer that provided the work training or work experience from which  
7 the claim arose.

*(end of insert  
at 102.29)*

~~SECTION 47. 102.31 (2) (b) 2. of the statutes is amended to read.~~

~~9           102.31 (2) (b) 2. Regardless of whether the notices required under par. (a) have  
10 been given, a cancellation or termination is effective upon the effective date of  
11 replacement insurance coverage obtained by the employer or, of an order under s.  
12 102.28 (2) (b) exempting the employer from carrying the duty to carry insurance  
13 under s. 102.28 (2) (a), or of an election by an employer under s. 102.28 (2) (bm) to  
14 self-insure its liability for the payment of compensation under this chapter.~~

SECTION 48. 102.315 (2) of the statutes is amended to read:

16           102.315 (2) EMPLOYEE LEASING COMPANY LIABLE. An employee leasing company  
17 is liable under s. 102.03 for all compensation payable under this chapter to a leased  
18 employee, including any payments required under s. 102.16 (3), 102.18 (1) (b) 3. or  
19 (bp), 102.22 (1), 102.35 (3), 102.57, or 102.60. Except as permitted under s. 102.29,  
20 an employee leasing company may not seek or receive reimbursement from another  
21 employer for any payments made as a result of that liability. An employee leasing  
22 company is not liable under s. 102.03 for any compensation payable under this  
23 chapter to an employee of a client who is not a leased employee.

SECTION 49. 102.423 of the statutes is created to read:

*(Handwritten signature)*



State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-0921/P1  
GMM:emw:rs

DOA:.....Kirschbaum, BB0297 - Worker's compensation coverage for  
postsecondary students

**FOR 2015-2017 BUDGET — NOT READY FOR INTRODUCTION**

1 **AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**EMPLOYMENT**

Currently, a student of a public school or a private school, while he or she is engaged in performing services as part of a school work training, work experience, or work study program, who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of a school district or private school that elects to name the student as an employee for purposes of worker's compensation coverage. Also, under current law, a student who is named as an employee of a school district or private school for purposes of worker's compensation coverage and who makes a claim for worker's compensation against his or her school district or private school may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose.

This bill extends those provisions to a student of an institution of higher education.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 102.07 (12m) of the statutes is renumbered 102.07 (12m) (b) and  
2 amended to read:

3           **102.07 (12m) (b)** A student of a public school, ~~as described in s. 115.01 (1), or~~  
4 ~~a private school, as defined in s. 115.001 (3r), or an institution of higher education,~~  
5 while he or she is engaged in performing services as part of a school work training,  
6 work experience, or work study program, and who is not on the payroll of an employer  
7 that is providing the work training or work experience or who is not otherwise  
8 receiving compensation on which a worker's compensation carrier could assess  
9 premiums on that employer, is an employee of a school district ~~or, private school, or~~  
10 institution of higher education that elects under s. 102.077 to name the student as  
11 its employee.

12           **SECTION 2.** 102.07 (12m) (a) of the statutes is created to read:

13           **102.07 (12m) (a)** In this subsection:

14           1. "Institution of higher education" means an institution within the University  
15 of Wisconsin System, a technical college, a tribally controlled college controlled by  
16 an Indian tribe that has elected under s. 102.05 (2) to become subject to this chapter,  
17 a school approved under s. 38.50, or a private, nonprofit institution of higher  
18 education located in this state.

19           2. "Private school" has the meaning given in s. 115.001 (3r).

20           3. "Public school" means a school described in s. 115.01 (1).

21           **SECTION 3.** 102.077 (1) of the statutes is amended to read:

1           102.077 (1) A school district ~~or a~~, private school, ~~as defined in s. 115.001 (3r),~~  
2           or institution of higher education may elect to name as its employee for purposes of  
3           this chapter a student described in s. 102.07 (12m) (b) by an endorsement on its policy  
4           of worker's compensation insurance or, if the school district ~~or~~, private school, or  
5           institution of higher education is exempt from the duty to insure under s. 102.28 (2)  
6           (a), by filing a declaration with the department in the manner provided in s. 102.31  
7           (2) (a) naming the student as an employee of the school district ~~or~~, private school, or  
8           institution of higher education for purposes of this chapter. A declaration under this  
9           subsection shall list the name of the student to be covered under this chapter, the  
10          name and address of the employer that is providing the work training or work  
11          experience for that student, and the title, if any, of the work training, work  
12          experience, or work study program in which the student is participating.

13           **SECTION 4.** 102.077 (2) of the statutes is amended to read:

14           102.077 (2) A school district ~~or~~, private school, or institution of higher  
15          education may revoke a declaration under sub. (1) by providing written notice to the  
16          department in the manner provided in s. 102.31 (2) (a), the student, and the employer  
17          who is providing the work training or work experience for that student. A revocation  
18          under this subsection is effective 30 days after the department receives notice of that  
19          revocation.

20           **SECTION 5.** 102.29 (8) of the statutes is amended to read:

21           102.29 (8) No student of a public school, as described in s. 115.01 (1), ~~or a private~~  
22          ~~school, as defined in s. 115.001 (3r),~~ or an institution of higher education who is  
23          named under s. 102.077 as an employee of the school district, private school, or  
24          institution of higher education for purposes of this chapter and who makes a claim  
25          for compensation under this chapter may make a claim or maintain an action in tort

1 against the employer that provided the work training or work experience from which  
2 the claim arose.

3 **(END)**