



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5114/1
MED&MIM:all

2019 SENATE BILL 673

January 8, 2020 - Introduced by COMMITTEE ON LABOR AND REGULATORY REFORM, by request of Department of Workforce Development. Referred to Committee on Labor and Regulatory Reform.

1 **AN ACT to repeal** 102.01 (2) (ad), 102.01 (2) (ar), 227.43 (1) (bm), 227.43 (2) (am),
2 227.43 (3) (bm) and 227.43 (4) (bm); **to renumber and amend** 102.17 (4) and
3 102.58; **to amend** 20.445 (1) (ra), 20.445 (1) (sm), 40.65 (2) (a), 40.65 (2) (b) 3.,
4 40.65 (2) (b) 4., 46.275 (4m), 46.277 (3r), 46.281 (1k), 46.2897 (3), 46.995 (3),
5 102.01 (2) (dm), 102.04 (1) (b) 1., 102.04 (1) (b) 2., 102.04 (2m), 102.04 (2r) (b),
6 102.07 (8) (c), 102.11 (1) (am) 1., 102.12, 102.13 (1) (c), 102.13 (1) (d) 2., 102.13
7 (1) (d) 3., 102.13 (1) (f), 102.13 (2) (a), 102.13 (3), 102.13 (4), 102.13 (5), 102.14
8 (title), 102.14 (1), 102.14 (2), 102.15 (1), 102.15 (2), 102.16 (1m) (a), 102.16 (1m)
9 (b), 102.16 (1m) (c), 102.16 (2) (a), 102.16 (2) (b), 102.16 (2m) (a), 102.16 (2m)
10 (b), 102.16 (4), 102.17 (1) (a) 1., 102.17 (1) (a) 2., 102.17 (1) (a) 3., 102.17 (1) (a)
11 4., 102.17 (1) (b), 102.17 (1) (c) 1., 102.17 (1) (d) 1., 102.17 (1) (d) 2., 102.17 (1)
12 (d) 3., 102.17 (1) (d) 4., 102.17 (1) (e), 102.17 (1) (f) 1., 102.17 (1) (g), 102.17 (1)
13 (h), 102.17 (2), 102.17 (2m), 102.17 (2s), 102.17 (7) (b), 102.17 (7) (c), 102.17 (8),
14 102.175 (2), 102.175 (3) (c), 102.18 (1) (b) 1., 102.18 (1) (b) 2., 102.18 (1) (b) 3.,

SENATE BILL 673

1 102.18 (1) (bg) 1., 102.18 (1) (bg) 2., 102.18 (1) (bg) 3., 102.18 (1) (bp), 102.18 (1)
2 (bw), 102.18 (1) (c), 102.18 (1) (e), 102.18 (3), 102.18 (4) (c) 3., 102.18 (4) (d),
3 102.18 (5), 102.18 (6), 102.195, 102.22 (1), 102.22 (2), 102.23 (2), 102.23 (3),
4 102.23 (5), 102.24 (2), 102.25 (1), 102.26 (2), 102.26 (3) (b) 1., 102.26 (3) (b) 3.,
5 102.26 (4), 102.27 (2) (b), 102.28 (3) (c), 102.28 (4) (c), 102.29 (1) (b) (intro.),
6 102.29 (1) (c), 102.29 (1) (d), 102.29 (6m) (a) 3., 102.30 (7) (a), 102.315 (1) (c),
7 102.315 (2), 102.32 (1m) (intro.), 102.32 (1m) (a), 102.32 (1m) (c), 102.32 (1m)
8 (d), 102.32 (5), 102.32 (6m), 102.32 (7), 102.33 (1), 102.33 (2) (a), 102.33 (2) (b)
9 (intro.), 102.33 (2) (b) 1., 102.33 (2) (b) 2., 102.33 (2) (b) 4., 102.33 (2) (c), 102.33
10 (2) (d) 2., 102.35 (3), 102.42 (1), 102.42 (1m), 102.42 (6), 102.42 (8), 102.425 (4m)
11 (a), 102.425 (4m) (b), 102.43 (5) (b), 102.44 (2), 102.44 (6) (b), 102.475 (6), 102.48
12 (1), 102.48 (2), 102.48 (3), 102.49 (3), 102.49 (5) (b), 102.49 (5) (c), 102.49 (5) (e),
13 102.49 (6), 102.51 (3), 102.51 (4), 102.51 (6), 102.55 (3), 102.555 (12) (a), 102.56
14 (1), 102.56 (2), 102.565 (1), 102.565 (2), 102.565 (3), 102.61 (1g) (c), 102.61 (1m)
15 (c), 102.61 (2), 102.62, 102.64 (1), 102.64 (2), 102.65 (3), 102.66 (1), 102.75 (1),
16 102.75 (1m), 102.80 (1) (d), 102.81 (4) (b) (intro.), 102.81 (4) (b) 2., 102.81 (5) and
17 102.82 (1); **to repeal and recreate** 102.16 (1) and 102.18 (2); and **to create**
18 20.445 (1) (rc), 102.04 (2g), 102.13 (2) (am), 102.17 (9), 102.29 (6m) (a) 1m.,
19 102.315 (2e), 102.315 (2m), 102.315 (2s), 102.33 (2) (b) 7., 102.42 (1p), 102.44
20 (7), 102.49 (5) (cm), 102.81 (4) (c) and 146.82 (2) (a) 3m. of the statutes; **relating**

SENATE BILL 673

1 **to:** various changes to the worker's compensation law and making an
2 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 and the Division of Hearings and Appeals in the Department of Administration (DHA).

PAYMENT OF BENEFITS; OTHER PAYMENTS***Liability for public safety officers***

This bill makes changes to the conditions of liability for worker's compensation benefits for a law enforcement officer or a fire fighter (public safety officer) who is diagnosed with post-traumatic stress disorder.

The bill provides that if a public safety officer is diagnosed with post-traumatic stress disorder by a licensed psychiatrist or psychologist and the mental injury that resulted in that diagnosis is not accompanied by a physical injury, that public safety officer can bring a claim for worker's compensation benefits if the conditions of liability are proven by a preponderance of the evidence and the mental injury is not the result of a good-faith employment action by the person's employer. Under the bill, such an injured public safety employee is not required to demonstrate a diagnosis based on unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by all employees as required under *School District No. 1 v. DILHR*, 62 Wis. 2d 370, 215 N.W.2d 373 (1974).

The bill also limits liability for treatment for a mental injury that is compensable under the bill's provisions to no more than 32 weeks after the injury is first reported.

Payments in cases of injuries resulting in death

Current law provides that, in each case of an injury resulting in death leaving no person dependent for support or leaving one or more persons partially dependent for support, the employer or insurer must pay into the work injury supplemental benefit fund (WISBF) the amount of the death benefit otherwise payable. This bill does the following:

1. Allows such amounts due to be paid in advance of when they would otherwise be due, including as a single, lump-sum payment. If an employer or insurer makes an advance or lump-sum payment, the bill requires DWD to give the employer or the insurer an interest credit, computed as otherwise provided under current law. Current law requires, in the case of a death leaving no dependents, that the payments be made in five equal annual installments.

2. Provides that, in the case of a violation of an employer policy against drug or alcohol use that is causal to an employee's injury resulting in death who leaves no person dependent for support or leaving one or more persons partially dependent for support, no payment is required to be made to WISBF. Current law provides that, in the case of such a violation, then neither the employee nor the employee's dependents may receive any compensation under the worker's compensation law for

SENATE BILL 673

that injury, other than costs for treating the injury, but does not exempt the employer or insurer from the payment to WISBF.

Furnishing of billing statements

This bill requires a health care provider to furnish to the representative or agent of a worker's compensation insurer a complete billing statement for treatment of an injury for which an employee claims compensation upon request. The bill provides that a health care provider may not charge for the copy of the billing statement and that if the provider does not comply with the request within 30 days, the insurer is not liable to the provider for payment for the services that were billed on the requested statement.

Payment of proceeds of claims against third parties

Current law provides that when an employee sustains a work injury or dies as a result of a work injury and the employee, the employee's personal representative, or other person entitled to bring action maintains an action in tort against a third party for the injury or death, the proceeds of the claim are to be divided pursuant to a formula detailed under current law. Under that formula, after deducting the reasonable cost of collection, one-third of the remainder is in all cases to be paid to the injured employee, personal representative, or other person entitled. Current law also provides that if an injured employee or dependent receives compensation from the employee's employer or a third party in such an action and the employee received payments from DWD due to the employer being an uninsured employer, the employee or dependent must reimburse DWD for the full amount up to the amount recovered from the third party.

This bill modifies the latter provision such that if an injured employee or dependent receives compensation from the employee's employer or a third party in such an action and the employee received payments from DWD due to the employer being an uninsured employer, the employee or dependent must reimburse DWD in accordance with the formula described above.

COVERAGE; LIABILITY***Leased employees***

Under current law, employee leasing companies are generally liable for injuries to their leased employees under the worker's compensation law. This bill provides that a client of an employee leasing company may instead assume the liability for leased employees under an employee leasing agreement. The bill also provides that if a client terminates or otherwise does not provide worker's compensation insurance coverage for the leased employees, the employee leasing company is liable for injuries to those leased employees under the worker's compensation law.

Employers subject to worker's compensation law

Under current law, every person who usually employs three or more employees for services performed in this state is subject to the worker's compensation law. This bill provides that every person who at any time employs three or more employees for services performed in this state is subject to the worker's compensation law and specifies that a person becomes subject to that law on the day on which the person employs three or more employees for services performed in this state.

SENATE BILL 673***Statute of limitations***

This bill clarifies that for worker's compensation claims the statute of limitations applies to an individual's employer, the employer's insurance company, and any other named party.

Long-term care providers; clarification

The bill makes clarifications regarding individuals who perform services for persons receiving long-term care benefits under certain long-term care programs and who do not otherwise have worker's compensation coverage for those services to confirm that they are considered to be employees, for worker's compensation purposes, of the entities providing financial management services for the persons receiving the benefits.

PROGRAM ADMINISTRATION***Authority to conduct hearings***

Under current law, DWD performs various administrative and adjudicatory functions relating to worker's compensation, except that the adjudicatory functions of DWD relating to disputed worker's compensation claims are performed by DHA. This bill transfers the adjudicatory functions of DHA relating to disputed worker's compensation claims to DWD.

Confidential records; disclosure to certain agencies

Under current law, subject to a number of exceptions, certain records of DWD, DHA, or the Labor and Industry Review Commission that reveal information about injured employees are confidential and not subject to disclosure under the public records law or a subpoena. The bill creates another exception for records requested by the Department of Health Services, a county department of social services, or a county department of human services, if the request is limited to the name and address of the employee who is the subject of the record, the name and address of the employee's employer, and any financial information about that employee contained in the record.

Disclosure of records

This bill conforms state law to the exemption from federal medical privacy laws for administration of worker's compensation claims. The federal privacy regulations allow a health care provider to disclose without authorization from the patient protected health information as authorized by and to the extent necessary to comply with worker's compensation laws.

Other changes

The bill makes various other changes regarding the administration of the worker's compensation law, including 1) adjustments to appropriations and position authority; and 2) changes regarding the financing of the worker's compensation program, including creating a separate appropriation to pay for certain reimbursements for supplemental benefit payments.

SENATE BILL 673

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.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

	2019-20		2020-21
3 20.445 Workforce development, department of			
4 (1) WORKFORCE DEVELOPMENT			
5 (rc) Worker’s compensation opera-			
6 tions fund; supplemental bene-			
7 fits	SEG	A	5,000,000 5,000,000

8 **SECTION 2.** 20.445 (1) (ra) of the statutes is amended to read:

9 20.445 (1) (ra) *Worker’s compensation operations fund; administration.* From
10 the worker’s compensation operations fund, the amounts in the schedule for the
11 administration of the worker’s compensation program by the department, for
12 assistance to the department of justice in investigating and prosecuting fraudulent
13 activity related to worker’s compensation, for transfer to the uninsured employers
14 fund under s. 102.81 (1) (c), and for transfer to the appropriation accounts under par.
15 (rp) and s. 20.427 (1) (ra). All moneys received under ss. 102.28 (2) (b) and 102.75
16 (1) shall be credited to this appropriation account. From this appropriation, an
17 amount not to exceed \$5,000 may be expended each fiscal year for payment of
18 expenses for travel and research by the council on worker’s compensation, an amount
19 not to exceed \$500,000 may be transferred in each fiscal year to the uninsured

SENATE BILL 673

1 employers fund under s. 102.81 (1) (c), the amount in the schedule under par. (rp)
2 shall be transferred to the appropriation account under par. (rp), and the amount in
3 the schedule under s. 20.427 (1) (ra) shall be transferred to the appropriation account
4 under s. 20.427 (1) (ra).

5 **SECTION 3.** 20.445 (1) (rc) of the statutes is created to read:

6 20.445 (1) (rc) *Worker's compensation operations fund; supplemental benefits.*

7 From the worker's compensation operations fund, the amounts in the schedule for
8 providing reimbursement to insurance carriers paying supplemental benefits under
9 s. 102.44 (1) (c). All moneys received under s. 102.75 (1g) shall be credited to this
10 appropriation account.

11 **SECTION 4.** 20.445 (1) (sm) of the statutes is amended to read:

12 20.445 (1) (sm) *Uninsured employers fund; payments.* From the uninsured
13 employers fund, ~~a sum sufficient to make~~ all moneys received from sources identified
14 under s. 102.80 (1m) for the purpose of making the payments under s. 102.81 (1) and
15 to obtain reinsurance under s. 102.81 (2). No moneys may be expended or
16 encumbered under this paragraph until the first day of the first July beginning after
17 the day that the secretary of workforce development files the certificate under s.
18 102.80 (3) (a).

19 **SECTION 5.** 40.65 (2) (a) of the statutes is amended to read:

20 40.65 (2) (a) This paragraph applies to participants who first apply for benefits
21 before May 3, 1988. Any person desiring a benefit under this section must apply to
22 the department of workforce development, which department shall determine
23 whether the applicant is eligible to receive the benefit and the participant's monthly
24 salary. Appeals from the eligibility decision shall follow the procedures under ss.
25 102.16 to 102.26. If it is determined that an applicant is eligible, the department of

SENATE BILL 673**SECTION 5**

1 workforce development shall notify the department of employee trust funds and
2 shall certify the applicant's monthly salary. If at the time of application for benefits
3 an applicant is still employed in any capacity by the employer in whose employ the
4 disabling injury occurred or disease was contracted, that continued employment
5 shall not affect that applicant's right to have his or her eligibility to receive those
6 benefits determined in proceedings before the ~~division of hearings and appeals in the~~
7 ~~department of administration~~ department of workforce development or the labor and
8 industry review commission or in proceedings in the courts. The department of
9 workforce development may promulgate rules needed to administer this paragraph.

10 **SECTION 6.** 40.65 (2) (b) 3. of the statutes is amended to read:

11 40.65 (2) (b) 3. The department shall determine whether or not the applicant
12 is eligible for benefits under this section on the basis of the evidence in subd. 2. An
13 applicant may appeal a determination under this subdivision to the ~~division of~~
14 ~~hearings and appeals in the department of administration~~ department of workforce
15 development.

16 **SECTION 7.** 40.65 (2) (b) 4. of the statutes is amended to read:

17 40.65 (2) (b) 4. In hearing an appeal under subd. 3., the ~~division of hearings and~~
18 ~~appeals in the department of administration~~ department of workforce development
19 shall follow the procedures under ss. 102.16 to 102.26.

20 **SECTION 8.** 46.275 (4m) of the statutes is amended to read:

21 46.275 (4m) **WORKER'S COMPENSATION COVERAGE.** An individual who is
22 performing services for a person receiving long-term care benefits under this section
23 on a self-directed basis and who does not otherwise have worker's compensation
24 coverage for those services is considered, for purposes of worker's compensation

SENATE BILL 673

1 coverage, to be an employee of the entity that is providing financial management
2 services for that person.

3 **SECTION 9.** 46.277 (3r) of the statutes is amended to read:

4 46.277 **(3r)** WORKER'S COMPENSATION COVERAGE. An individual who is
5 performing services for a person receiving long-term care benefits under this section
6 on a self-directed basis and who does not otherwise have worker's compensation
7 coverage for those services is considered, for purposes of worker's compensation
8 coverage, to be an employee of the entity that is providing financial management
9 services for that person.

10 **SECTION 10.** 46.281 (1k) of the statutes is amended to read:

11 46.281 **(1k)** WORKER'S COMPENSATION COVERAGE. An individual who is
12 performing services for a person receiving the Family Care benefit, or benefits under
13 Family Care Partnership, on a self-directed basis and who does not otherwise have
14 worker's compensation coverage for those services is considered, for purposes of
15 worker's compensation coverage, to be an employee of the entity that is providing
16 financial management services for that person.

17 **SECTION 11.** 46.2897 (3) of the statutes is amended to read:

18 46.2897 **(3)** WORKER'S COMPENSATION COVERAGE. An individual who is
19 performing services for a person participating in the self-directed services option
20 and who does not otherwise have worker's compensation coverage for those services
21 is considered, for purposes of worker's compensation coverage, to be an employee of
22 the entity that is providing financial management services for that person.

23 **SECTION 12.** 46.995 (3) of the statutes is amended to read:

24 46.995 **(3)** An individual who is performing services for a person receiving
25 long-term care benefits under any children's long-term support waiver program on

SENATE BILL 673**SECTION 12**

1 a self-directed basis and who does not otherwise have worker's compensation
2 coverage for those services is considered, for purposes of worker's compensation
3 coverage, to be an employee of the entity that is providing financial management
4 services for that person.

5 **SECTION 13.** 102.01 (2) (ad) of the statutes is repealed.

6 **SECTION 14.** 102.01 (2) (ar) of the statutes is repealed.

7 **SECTION 15.** 102.01 (2) (dm) of the statutes is amended to read:

8 102.01 (2) (dm) "Order" means any decision, rule, regulation, direction,
9 requirement, or standard of the department ~~or the division~~, or any other
10 determination arrived at or decision made by the department ~~or the division~~.

11 **SECTION 16.** 102.04 (1) (b) 1. of the statutes is amended to read:

12 102.04 (1) (b) 1. Every person who usually at any time employs 3 or more
13 employees for services performed in this state, whether in one or more trades,
14 businesses, professions, or occupations, and whether in one or more locations. A
15 person who employs 3 or more employees for services performed in this state becomes
16 subject to this chapter on the day on which the person employs 3 or more such
17 employees.

18 **SECTION 17.** 102.04 (1) (b) 2. of the statutes is amended to read:

19 102.04 (1) (b) 2. Every person who usually employs less fewer than 3
20 employees, provided the person has paid wages of \$500 or more in any calendar
21 quarter for services performed in this state. Such ~~employer~~ a person shall become
22 subject to this chapter on the 10th day of the month next succeeding such quarter.

23 **SECTION 18.** 102.04 (2g) of the statutes is created to read:

SENATE BILL 673

1 102.04 (2g) Liability under s. 102.03 with respect to a leased employee, as
2 defined in s. 102.315 (1) (g), shall be determined as provided in s. 102.315 (2) or (2m)
3 (c), whichever is applicable.

4 **SECTION 19.** 102.04 (2m) of the statutes is amended to read:

5 102.04 (2m) ~~A Except as otherwise provided in an employee leasing agreement~~
6 that meets the requirements of s. 102.315 (2m), a temporary help agency is the
7 employer of an employee whom the temporary help agency has placed with or leased
8 to another employer that compensates the temporary help agency for the employee's
9 services. ~~A Except as provided in s. 102.315 (2m) (c),~~ a temporary help agency is
10 liable under s. 102.03 for all compensation and other payments payable under this
11 chapter to or with respect to that employee, including any payments required under
12 s. 102.16 (3), 102.18 (1) (b) 3. or (bp), 102.22 (1), 102.35 (3), 102.57, or 102.60. Except
13 as permitted under s. 102.29, a temporary help agency may not seek or receive
14 reimbursement from another employer for any payments made as a result of that
15 liability.

16 **SECTION 20.** 102.04 (2r) (b) of the statutes is amended to read:

17 102.04 (2r) (b) The franchisor has been found by the department ~~or the division~~
18 to have exercised a type or degree of control over the franchisee or the franchisee's
19 employees that is not customarily exercised by a franchisor for the purpose of
20 protecting the franchisor's trademarks and brand.

21 **SECTION 21.** 102.07 (8) (c) of the statutes is amended to read:

22 102.07 (8) (c) The ~~division~~ department may not admit in evidence any state or
23 federal law, regulation, or document granting operating authority, or a license when
24 determining whether an independent contractor meets the conditions specified in
25 par. (b) 1. or 3.

SENATE BILL 673**SECTION 22**

1 **SECTION 22.** 102.11 (1) (am) 1. of the statutes is amended to read:

2 102.11 (1) (am) 1. The employee is a member of a class of employees that does
3 the same type of work at the same location and, in the case of an employee in the
4 service of the state, is employed in the same office, department, independent agency,
5 authority, institution, association, society, or other body in state government or, if the
6 department ~~or the division~~ determines appropriate, in the same subunit of an office,
7 department, independent agency, authority, institution, association, society, or other
8 body in state government.

9 **SECTION 23.** 102.12 of the statutes is amended to read:

10 **102.12 Notice of injury, exception, laches.** No claim for compensation may
11 be maintained unless, within 30 days after the occurrence of the injury or within 30
12 days after the employee knew or ought to have known the nature of his or her
13 disability and its relation to the employment, actual notice was received by the
14 employer or by an officer, manager or designated representative of an employer. If
15 no representative has been designated by posters placed in one or more conspicuous
16 places where notices to employees are customarily posted, then notice received by
17 any superior is sufficient. Absence of notice does not bar recovery if it is found that
18 the employer was not misled by that absence. Regardless of whether notice was
19 received, if no payment of compensation, other than medical treatment or burial
20 expense, is made, and if no application is filed with the department within 2 years
21 after the date of the injury or death or the date the employee or his or her dependent
22 knew or ought to have known the nature of the disability and its relation to the
23 employment, the right to compensation for the injury or death is barred, except that
24 the right to compensation is not barred if the employer knew or should have known,
25 within the 2-year period, that the employee had sustained the injury on which the

SENATE BILL 673

1 claim is based. Issuance of notice of a hearing on the motion of the department or
2 the division has the same effect for the purposes of this section as the filing of an
3 application. This section does not affect any claim barred under s. 102.17 (4).

4 **SECTION 24.** 102.13 (1) (c) of the statutes is amended to read:

5 102.13 (1) (c) So long as the employee, after a written request of the employer
6 or insurer that complies with par. (b), refuses to submit to or in any way obstructs
7 the examination, the employee's right to begin or maintain any proceeding for the
8 collection of compensation is suspended, except as provided in sub. (4). If the
9 employee refuses to submit to the examination after direction by the department, the
10 division, or an examiner, or in any way obstructs the examination, the employee's
11 right to the weekly indemnity that accrues and becomes payable during the period
12 of that refusal or obstruction, is barred, except as provided in sub. (4).

13 **SECTION 25.** 102.13 (1) (d) 2. of the statutes is amended to read:

14 102.13 (1) (d) 2. Any physician, chiropractor, psychologist, dentist, physician
15 assistant, advanced practice nurse prescriber, or podiatrist who attended a worker's
16 compensation claimant for any condition or complaint reasonably related to the
17 condition for which the claimant claims compensation may be required to testify
18 before the ~~division~~ department when the ~~division~~ department so directs.

19 **SECTION 26.** 102.13 (1) (d) 3. of the statutes is amended to read:

20 102.13 (1) (d) 3. Notwithstanding any statutory provisions except par. (e), any
21 physician, chiropractor, psychologist, dentist, physician assistant, advanced
22 practice nurse prescriber, or podiatrist attending a worker's compensation claimant
23 for any condition or complaint reasonably related to the condition for which the
24 claimant claims compensation may furnish to the employee, employer, worker's

SENATE BILL 673

1 compensation insurer, or department, ~~or division~~ information and reports relative to
2 a compensation claim.

3 **SECTION 27.** 102.13 (1) (f) of the statutes is amended to read:

4 102.13 (1) (f) If an employee claims compensation under s. 102.81 (1), the
5 department ~~or the division~~ may require the employee to submit to physical or
6 vocational examinations under this subsection.

7 **SECTION 28.** 102.13 (2) (a) of the statutes is amended to read:

8 102.13 (2) (a) An employee who reports an injury alleged to be work-related
9 or files an application for hearing waives any physician-patient,
10 psychologist-patient, or chiropractor-patient privilege with respect to any condition
11 or complaint reasonably related to the condition for which the employee claims
12 compensation. Notwithstanding ss. 51.30 and 146.82 and any other law, any
13 physician, chiropractor, psychologist, dentist, podiatrist, physician assistant,
14 advanced practice nurse prescriber, hospital, or health care provider shall, within a
15 reasonable time after written request by the employee, employer, worker's
16 compensation insurer, or department, ~~or division~~, or its representative, provide that
17 person with any information or written material reasonably related to any injury for
18 which the employee claims compensation.

19 **SECTION 29.** 102.13 (2) (am) of the statutes is created to read:

20 102.13 (2) (am) Notwithstanding s. 51.30, within 30 days after receiving a
21 request by a representative or agent of a worker's compensation insurer, a physician,
22 chiropractor, podiatrist, psychologist, dentist, physician assistant, advanced
23 practice nurse prescriber, hospital, or other health care provider shall furnish to the
24 representative or agent a complete copy of a billing statement regarding an injury
25 for which an employee claims compensation. The physician, chiropractor, podiatrist,

SENATE BILL 673

1 psychologist, dentist, physician assistant, advanced practice nurse prescriber,
2 hospital, or other health care provider shall provide the billing statement upon the
3 standard billing form required by the federal centers for Medicare and Medicaid
4 services and may not charge for providing the statement. If a person does not timely
5 comply with a request made pursuant to this paragraph, the worker's compensation
6 insurer is not liable for any services provided that were billed on the requested billing
7 statement.

8 **SECTION 30.** 102.13 (3) of the statutes is amended to read:

9 102.13 (3) If 2 or more physicians, chiropractors, psychologists, dentists, or
10 podiatrists disagree as to the extent of an injured employee's temporary disability,
11 the end of an employee's healing period, an employee's ability to return to work at
12 suitable available employment or the necessity for further treatment or for a
13 particular type of treatment, the department ~~or the division~~ may appoint another
14 physician, chiropractor, psychologist, dentist, or podiatrist to examine the employee
15 and render an opinion as soon as possible. The department ~~or the division~~ shall
16 promptly notify the parties of this appointment. If the employee has not returned
17 to work, payment for temporary disability shall continue until the department ~~or the~~
18 ~~division~~ receives the opinion. The employer or its insurance carrier, or both, shall
19 pay for the examination and opinion. The employer or insurance carrier, or both,
20 shall receive appropriate credit for any overpayment to the employee determined by
21 the department ~~or the division~~ after receipt of the opinion.

22 **SECTION 31.** 102.13 (4) of the statutes is amended to read:

23 102.13 (4) The right of an employee to begin or maintain proceedings for the
24 collection of compensation and to receive weekly indemnities that accrue and become
25 payable shall not be suspended or barred under sub. (1) when an employee refuses

SENATE BILL 673**SECTION 31**

1 to submit to a physical examination, upon the request of the employer or worker's
2 compensation insurer or at the direction of the department, ~~the division~~, or an
3 examiner, that would require the employee to travel a distance of 100 miles or more
4 from his or her place of residence, unless the employee has claimed compensation for
5 treatment from a practitioner whose office is located 100 miles or more from the
6 employee's place of residence or the department, ~~division~~, or examiner determines
7 that any other circumstances warrant the examination. If the employee has claimed
8 compensation for treatment from a practitioner whose office is located 100 miles or
9 more from the employee's place of residence, the employer or insurer may request,
10 or the department, ~~the division~~, or an examiner may direct, the employee to submit
11 to a physical examination in the area where the employee's treatment practitioner
12 is located.

13 **SECTION 32.** 102.13 (5) of the statutes is amended to read:

14 102.13 (5) The department ~~or the division~~ may refuse to receive testimony as
15 to conditions determined from an autopsy if it appears that the party offering the
16 testimony had procured the autopsy and had failed to make reasonable effort to
17 notify at least one party in adverse interest or the department ~~or the division~~ at least
18 12 hours before the autopsy of the time and place at which the autopsy would be
19 performed, or that the autopsy was performed by or at the direction of the coroner
20 or medical examiner or at the direction of the district attorney for purposes not
21 authorized under ch. 979. The department ~~or the division~~ may withhold findings
22 until an autopsy is held in accordance with its directions.

23 **SECTION 33.** 102.14 (title) of the statutes is amended to read:

24 **102.14 (title) Jurisdiction, powers, and duties of department and**
25 **division; advisory committee council.**

SENATE BILL 673

1 **SECTION 34.** 102.14 (1) of the statutes is amended to read:

2 102.14 (1) Except as otherwise provided, this chapter shall be administered by
3 the department ~~and the division~~.

4 **SECTION 35.** 102.14 (2) of the statutes is amended to read:

5 102.14 (2) The council on worker's compensation shall advise the department
6 ~~and the division~~ in carrying out the purposes of this chapter, shall submit its
7 recommendations with respect to amendments to this chapter to each regular
8 session of the legislature, and shall report its views upon any pending bill relating
9 to this chapter to the proper legislative committee. At the request of the chairpersons
10 of the senate and assembly committees on labor, the department shall schedule a
11 meeting of the council with the members of the senate and assembly committees on
12 labor to review and discuss matters of legislative concern arising under this chapter.

13 **SECTION 36.** 102.15 (1) of the statutes is amended to read:

14 102.15 (1) Subject to this chapter, the ~~division~~ department may adopt its own
15 promulgate rules of procedure ~~and may change the same from time to time~~.

16 **SECTION 37.** 102.15 (2) of the statutes is amended to read:

17 102.15 (2) The ~~division~~ department may provide by rule the conditions under
18 which transcripts of testimony and proceedings shall be furnished.

19 **SECTION 38.** 102.16 (1) of the statutes is repealed and recreated to read:

20 102.16 (1) Any controversy concerning compensation or a violation of sub. (3),
21 including a controversy in which the state may be a party, shall be submitted to the
22 department in the manner and with the effect provided in this chapter. Every
23 compromise of any claim for compensation may be reviewed and set aside, modified,
24 or confirmed by the department within one year after the date on which the
25 compromise is filed with the department, the date on which an award has been

SENATE BILL 673

1 entered based on the compromise, or the date on which an application for the
2 department to take any of those actions is filed with the department. Unless the
3 word “compromise” appears in a stipulation of settlement, the settlement shall not
4 be considered a compromise, and further claim is not barred except as provided in
5 s. 102.17 (4) regardless of whether an award is made. The employer, insurer or
6 dependent under s. 102.51 (5) shall have equal rights with the employee to have a
7 compromise or any other stipulation of settlement reviewed under this subsection.
8 Upon petition filed with the department under this subsection, the department may
9 set aside the award or otherwise determine the rights of the parties.

10 **SECTION 39.** 102.16 (1m) (a) of the statutes is amended to read:

11 102.16 (1m) (a) If an insurer or self-insured employer concedes by compromise
12 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured
13 employer is liable under this chapter for any health services provided to an injured
14 employee by a health service provider, but disputes the reasonableness of the fee
15 charged by the health service provider, the department ~~or the division~~ may include
16 in its order confirming the compromise or stipulation a determination made by the
17 department under sub. (2) as to the reasonableness of the fee or, if such a
18 determination has not yet been made, the department ~~or the division~~ may notify, or
19 direct the insurer or self-insured employer to notify, the health service provider
20 under sub. (2) (b) that the reasonableness of the fee is in dispute. The department
21 ~~or the division~~ shall deny payment of a health service fee that the department
22 determines under sub. (2) to be unreasonable. A health service provider and an
23 insurer or self-insured employer that are parties to a fee dispute under this
24 paragraph are bound by the department’s determination under sub. (2) on the
25 reasonableness of the disputed fee, unless that determination is set aside, reversed,

SENATE BILL 673

1 or modified by the department under sub. (2) (f) or is set aside on judicial review as
2 provided in sub. (2) (f).

3 **SECTION 40.** 102.16 (1m) (b) of the statutes is amended to read:

4 102.16 **(1m)** (b) If an insurer or self-insured employer concedes by compromise
5 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured
6 employer is liable under this chapter for any treatment provided to an injured
7 employee by a health service provider, but disputes the necessity of the treatment,
8 the department ~~or the division~~ may include in its order confirming the compromise
9 or stipulation a determination made by the department under sub. (2m) as to the
10 necessity of the treatment or, if such a determination has not yet been made, the
11 department ~~or the division~~ may notify, or direct the insurer or self-insured employer
12 to notify, the health service provider under sub. (2m) (b) that the necessity of the
13 treatment is in dispute. Before determining under sub. (2m) the necessity of
14 treatment provided to an injured employee, the department may, but is not required
15 to, obtain the opinion of an expert selected by the department who is qualified as
16 provided in sub. (2m) (c). The standards promulgated under sub. (2m) (g) shall be
17 applied by an expert and by the department in rendering an opinion as to, and in
18 determining, necessity of treatment under this paragraph. In cases in which no
19 standards promulgated under sub. (2m) (g) apply, the department shall find the facts
20 regarding necessity of treatment. The department ~~or the division~~ shall deny
21 payment for any treatment that the department determines under sub. (2m) to be
22 unnecessary. A health service provider and an insurer or self-insured employer that
23 are parties to a dispute under this paragraph over the necessity of treatment are
24 bound by the department's determination under sub. (2m) on the necessity of the
25 disputed treatment, unless that determination is set aside, reversed, or modified by

SENATE BILL 673

1 the department under sub. (2m) (e) or is set aside on judicial review as provided in
2 sub. (2m) (e).

3 **SECTION 41.** 102.16 (1m) (c) of the statutes is amended to read:

4 102.16 **(1m)** (c) If an insurer or self-insured employer concedes by compromise
5 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured
6 employer is liable under this chapter for the cost of a prescription drug dispensed
7 under s. 102.425 (2) for outpatient use by an injured employee, but disputes the
8 reasonableness of the amount charged for the prescription drug, the department ~~or~~
9 ~~the division~~ may include in its order confirming the compromise or stipulation a
10 determination made by the department under s. 102.425 (4m) as to the
11 reasonableness of the prescription drug charge or, if such a determination has not
12 yet been made, the department ~~or the division~~ may notify, or direct the insurer or
13 self-insured employer to notify, the pharmacist or practitioner dispensing the
14 prescription drug under s. 102.425 (4m) (b) that the reasonableness of the
15 prescription drug charge is in dispute. The department ~~or the division~~ shall deny
16 payment of a prescription drug charge that the department determines under s.
17 102.425 (4m) to be unreasonable. A pharmacist or practitioner and an insurer or
18 self-insured employer that are parties to a dispute under this paragraph over the
19 reasonableness of a prescription drug charge are bound by the department's
20 determination under s. 102.425 (4m) on the reasonableness of the disputed
21 prescription drug charge, unless that determination is set aside, reversed, or
22 modified by the department under s. 102.425 (4m) (e) or is set aside on judicial review
23 as provided in s. 102.425 (4m) (e).

24 **SECTION 42.** 102.16 (2) (a) of the statutes is amended to read:

SENATE BILL 673

1 102.16 (2) (a) Except as provided in this paragraph, the department has
2 jurisdiction under this subsection, ~~the department and the division have jurisdiction~~
3 ~~under sub. (1m) (a), and the division has jurisdiction under s. 102.17~~ to resolve a
4 dispute between a health service provider and an insurer or self-insured employer
5 over the reasonableness of a fee charged by the health service provider for health
6 services provided to an injured employee who claims benefits under this chapter. A
7 health service provider may not submit a fee dispute to the department under this
8 subsection before all treatment by the health service provider of the employee's
9 injury has ended if the amount in controversy, whether based on a single charge or
10 a combination of charges for one or more days of service, is less than \$25. After all
11 treatment by a health service provider of an employee's injury has ended, the health
12 service provider may submit any fee dispute to the department, regardless of the
13 amount in controversy. The department shall deny payment of a health service fee
14 that the department determines under this subsection to be unreasonable.

15 **SECTION 43.** 102.16 (2) (b) of the statutes is amended to read:

16 102.16 (2) (b) An insurer or self-insured employer that disputes the
17 reasonableness of a fee charged by a health service provider or the department ~~or the~~
18 ~~division~~ under sub. (1m) (a) or s. 102.18 (1) (bg) 1. shall provide reasonable written
19 notice to the health service provider that the fee is being disputed. After receiving
20 reasonable written notice under this paragraph or under sub. (1m) (a) or s. 102.18
21 (1) (bg) 1. that a health service fee is being disputed, a health service provider may
22 not collect the disputed fee from, or bring an action for collection of the disputed fee
23 against, the employee who received the services for which the fee was charged.

24 **SECTION 44.** 102.16 (2m) (a) of the statutes is amended to read:

SENATE BILL 673

1 102.16 (2m) (a) Except as provided in this paragraph, the department has
2 jurisdiction under this subsection, ~~the department and the division have jurisdiction~~
3 ~~under sub. (1m) (b), and the division has jurisdiction under s. 102.17~~ to resolve a
4 dispute between a health service provider and an insurer or self-insured employer
5 over the necessity of treatment provided for an injured employee who claims benefits
6 under this chapter. A health service provider may not submit a dispute over
7 necessity of treatment to the department under this subsection before all treatment
8 by the health service provider of the employee's injury has ended if the amount in
9 controversy, whether based on a single charge or a combination of charges for one or
10 more days of service, is less than \$25. After all treatment by a health service provider
11 of an employee's injury has ended, the health service provider may submit any
12 dispute over necessity of treatment to the department, regardless of the amount in
13 controversy. The department shall deny payment for any treatment that the
14 department determines under this subsection to be unnecessary.

15 **SECTION 45.** 102.16 (2m) (b) of the statutes is amended to read:

16 102.16 (2m) (b) An insurer or self-insured employer that disputes the
17 necessity of treatment provided by a health service provider or the department ~~or the~~
18 ~~division~~ under sub. (1m) (b) or s. 102.18 (1) (bg) 2. shall provide reasonable written
19 notice to the health service provider that the necessity of that treatment is being
20 disputed. After receiving reasonable written notice under this paragraph or under
21 sub. (1m) (b) or s. 102.18 (1) (bg) 2. that the necessity of treatment is being disputed,
22 a health service provider may not collect a fee for that disputed treatment from, or
23 bring an action for collection of the fee for that disputed treatment against, the
24 employee who received the treatment.

25 **SECTION 46.** 102.16 (4) of the statutes is amended to read:

SENATE BILL 673

1 102.16 (4) The department ~~and the division have~~ has jurisdiction to pass on any
2 question arising out of sub. (3) and to order the employer to reimburse an employee
3 or other person for any sum deducted from wages or paid by him or her in violation
4 of that subsection. In addition to the penalty provided in s. 102.85 (1), any employer
5 violating sub. (3) shall be liable to an injured employee for the reasonable value of
6 the necessary services rendered to that employee under any arrangement made in
7 violation of sub. (3) without regard to that employee's actual disbursements for those
8 services.

9 **SECTION 47.** 102.17 (1) (a) 1. of the statutes is amended to read:

10 102.17 (1) (a) 1. Upon the filing with the department by any party in interest
11 of any application in writing stating the general nature of any claim as to which any
12 dispute or controversy may have arisen, the department shall mail a copy of the
13 application to all other parties in interest, and the insurance carrier shall be
14 considered a party in interest. The department ~~or the division~~ may bring in
15 additional parties by service of a copy of the application.

16 **SECTION 48.** 102.17 (1) (a) 2. of the statutes is amended to read:

17 102.17 (1) (a) 2. Subject to subd. 3., the ~~division~~ department shall cause notice
18 of hearing on the application to be given to each interested party by service of that
19 notice on the interested party personally or by mailing a copy of that notice to the
20 interested party's last-known address at least 10 days before the hearing. If a party
21 in interest is located without this state, and has no post-office address within this
22 state, the copy of the application and copies of all notices shall be filed with the
23 department of financial institutions and shall also be sent by registered or certified
24 mail to the last-known post-office address of the party. Such filing and mailing shall

SENATE BILL 673

1 constitute sufficient service, with the same effect as if served upon a party located
2 within this state.

3 **SECTION 49.** 102.17 (1) (a) 3. of the statutes is amended to read:

4 102.17 (1) (a) 3. If a party in interest claims that the employer or insurer has
5 acted with malice or bad faith as described in s. 102.18 (1) (b) 3. or (bp), that party
6 shall provide written notice stating with reasonable specificity the basis for the claim
7 to the employer, the insurer, and the department, ~~and the division~~ before the ~~division~~
8 department schedules a hearing on the claim of malice or bad faith.

9 **SECTION 50.** 102.17 (1) (a) 4. of the statutes is amended to read:

10 102.17 (1) (a) 4. The hearing may be adjourned in the discretion of the ~~division~~
11 department, and hearings may be held at such places as the ~~division~~ department
12 designates, within or without the state. The ~~division~~ department may also arrange
13 to have hearings held by the commission, officer, or tribunal having authority to hear
14 cases arising under the worker's compensation law of any other state, of the District
15 of Columbia, or of any territory of the United States, with the testimony and
16 proceedings at any such hearing to be reported to the ~~division~~ department and to be
17 made part of the record in the case. Any evidence so taken shall be subject to rebuttal
18 upon final hearing before the ~~division~~ department.

19 **SECTION 51.** 102.17 (1) (b) of the statutes is amended to read:

20 102.17 (1) (b) In any dispute or controversy pending before the ~~division~~
21 department, the ~~division~~ department may direct the parties to appear before an
22 examiner for a conference to consider the clarification of issues, the joining of
23 additional parties, the necessity or desirability of amendments to the pleadings, the
24 obtaining of admissions of fact or of documents, records, reports, and bills that may
25 avoid unnecessary proof, and such other matters as may aid in disposition of the

SENATE BILL 673

1 dispute or controversy. After that conference the ~~division~~ department may issue an
2 order requiring disclosure or exchange of any information or written material that
3 the ~~division~~ department considers material to the timely and orderly disposition of
4 the dispute or controversy. If a party fails to disclose or exchange that information
5 within the time stated in the order, the ~~division~~ department may issue an order
6 dismissing the claim without prejudice or excluding evidence or testimony relating
7 to the information or written material. The ~~division~~ department shall provide each
8 party with a copy of any order issued under this paragraph.

9 **SECTION 52.** 102.17 (1) (c) 1. of the statutes is amended to read:

10 102.17 (1) (c) 1. Any party shall have the right to be present at any hearing,
11 in person or by attorney or any other agent, and to present such testimony as may
12 be pertinent to the controversy before the ~~division~~ department. No person, firm, or
13 corporation, other than an attorney at law who is licensed to practice law in the state,
14 may appear on behalf of any party in interest before the ~~division~~ department or any
15 member or employee of the ~~division~~ department assigned to conduct any hearing,
16 investigation, or inquiry relative to a claim for compensation or benefits under this
17 chapter, unless the person is 18 years of age or older, does not have an arrest or
18 conviction record, subject to ss. 111.321, 111.322 and 111.335, is otherwise qualified,
19 and has obtained from the department a license with authorization to appear in
20 matters or proceedings before the ~~division~~ department. Except as provided under
21 pars. (cm), (cr), and (ct), the license shall be issued by the department under rules
22 promulgated by the department. The department shall maintain in its office a
23 current list of persons to whom licenses have been issued.

24 **SECTION 53.** 102.17 (1) (d) 1. of the statutes is amended to read:

SENATE BILL 673

1 102.17 (1) (d) 1. The contents of certified medical and surgical reports by
2 physicians, podiatrists, surgeons, dentists, psychologists, physician assistants,
3 advanced practice nurse prescribers, and chiropractors licensed in and practicing in
4 this state, and of certified reports by experts concerning loss of earning capacity
5 under s. 102.44 (2) and (3), presented by a party for compensation constitute prima
6 facie evidence as to the matter contained in those reports, subject to any rules and
7 limitations the ~~division~~ department prescribes. Certified reports of physicians,
8 podiatrists, surgeons, dentists, psychologists, physician assistants, advanced
9 practice nurse prescribers, and chiropractors, wherever licensed and practicing, who
10 have examined or treated the claimant, and of experts, if the practitioner or expert
11 consents to being subjected to cross-examination, also constitute prima facie
12 evidence as to the matter contained in those reports. Certified reports of physicians,
13 podiatrists, surgeons, psychologists, and chiropractors are admissible as evidence of
14 the diagnosis, necessity of the treatment, and cause and extent of the disability.
15 Certified reports by doctors of dentistry, physician assistants, and advanced practice
16 nurse prescribers are admissible as evidence of the diagnosis and necessity of
17 treatment but not of the cause and extent of disability. Any physician, podiatrist,
18 surgeon, dentist, psychologist, chiropractor, physician assistant, advanced practice
19 nurse prescriber, or expert who knowingly makes a false statement of fact or opinion
20 in a certified report may be fined or imprisoned, or both, under s. 943.395.

21 **SECTION 54.** 102.17 (1) (d) 2. of the statutes is amended to read:

22 102.17 (1) (d) 2. The record of a hospital or sanatorium in this state that is
23 satisfactory to the ~~division~~ department, established by certificate, affidavit, or
24 testimony of the supervising officer of the hospital or sanatorium, any other person
25 having charge of the record, or a physician, podiatrist, surgeon, dentist, psychologist,

SENATE BILL 673

1 physician assistant, advanced practice nurse prescriber, or chiropractor to be the
2 record of the patient in question, and made in the regular course of examination or
3 treatment of the patient, constitutes prima facie evidence as to the matter contained
4 in the record, to the extent that the record is otherwise competent and relevant.

5 **SECTION 55.** 102.17 (1) (d) 3. of the statutes is amended to read:

6 102.17 (1) (d) 3. The ~~division~~ department may, by rule, establish the
7 qualifications of and the form used for certified reports submitted by experts who
8 provide information concerning loss of earning capacity under s. 102.44 (2) and (3).
9 The ~~division~~ department may not admit into evidence a certified report of a
10 practitioner or other expert or a record of a hospital or sanatorium that was not filed
11 with the ~~division~~ department and all parties in interest at least 15 days before the
12 date of the hearing, unless the ~~division~~ department is satisfied that there is good
13 cause for the failure to file the report.

14 **SECTION 56.** 102.17 (1) (d) 4. of the statutes is amended to read:

15 102.17 (1) (d) 4. A report or record described in subd. 1., 2., or 3. that is admitted
16 or received into evidence by the ~~division~~ department constitutes substantial
17 evidence under s. 102.23 (6) as to the matter contained in the report or record.

18 **SECTION 57.** 102.17 (1) (e) of the statutes is amended to read:

19 102.17 (1) (e) The ~~division~~ department may, with or without notice to any party,
20 cause testimony to be taken, an inspection of the premises where the injury occurred
21 to be made, or the time books and payrolls of the employer to be examined by any
22 examiner, and may direct any employee claiming compensation to be examined by
23 a physician, chiropractor, psychologist, dentist, or podiatrist. The testimony so
24 taken, and the results of any such inspection or examination, shall be reported to the
25 ~~division~~ department for its consideration upon final hearing. All ex parte testimony

SENATE BILL 673

1 taken by the ~~division~~ department shall be reduced to writing, and any party shall
2 have opportunity to rebut that testimony on final hearing.

3 **SECTION 58.** 102.17 (1) (f) 1. of the statutes is amended to read:

4 102.17 (1) (f) 1. Beyond reach of the subpoena of the ~~division~~ department.

5 **SECTION 59.** 102.17 (1) (g) of the statutes is amended to read:

6 102.17 (1) (g) Whenever the testimony presented at any hearing indicates a
7 dispute or creates a doubt as to the extent or cause of disability or death, the ~~division~~
8 department may direct that the injured employee be examined, that an autopsy be
9 performed, or that an opinion be obtained without examination or autopsy, by or from
10 an impartial, competent physician, chiropractor, dentist, psychologist or podiatrist
11 designated by the ~~division~~ department who is not under contract with or regularly
12 employed by a compensation insurance carrier or self-insured employer. The
13 expense of the examination, autopsy, or opinion shall be paid by the employer or, if
14 the employee claims compensation under s. 102.81, from the uninsured employers
15 fund. The report of the examination, autopsy, or opinion shall be transmitted in
16 writing to the ~~division~~ department and a copy of the report shall be furnished by the
17 ~~division~~ department to each party, who shall have an opportunity to rebut the report
18 on further hearing.

19 **SECTION 60.** 102.17 (1) (h) of the statutes is amended to read:

20 102.17 (1) (h) The contents of certified reports of investigation made by
21 industrial safety specialists who are employed, contracted, or otherwise secured by
22 the department ~~or the division~~ and who are available for cross-examination, if
23 served upon the parties 15 days prior to hearing, shall constitute prima facie
24 evidence as to matter contained in those reports. A report described in this
25 paragraph that is admitted or received into evidence by the ~~division~~ department

SENATE BILL 673

1 constitutes substantial evidence under s. 102.23 (6) as to the matter contained in the
2 report.

3 **SECTION 61.** 102.17 (2) of the statutes is amended to read:

4 102.17 (2) If the ~~division~~ department has reason to believe that the payment
5 of compensation has not been made, the ~~division~~ department may on its own motion
6 give notice to the parties, in the manner provided for the service of an application,
7 of a time and place when a hearing will be held for the purpose of determining the
8 facts. The notice shall contain a statement of the matter to be considered. All
9 provisions of this chapter governing proceedings on an application shall apply,
10 insofar as applicable, to a proceeding under this subsection. When the ~~division~~
11 department schedules a hearing on its own motion, the ~~division~~ department does not
12 become a party in interest and is not required to appear at the hearing.

13 **SECTION 62.** 102.17 (2m) of the statutes is amended to read:

14 102.17 (2m) ~~The division or any~~ Any party, including the department, may
15 require any person to produce books, papers, and records at the hearing by personal
16 service of a subpoena upon the person along with a tender of witness fees as provided
17 in ss. 814.67 and 885.06. Except as provided in sub. (2s), the subpoena shall be on
18 a form provided by the ~~division~~ department and shall give the name and address of
19 the party requesting the subpoena.

20 **SECTION 63.** 102.17 (2s) of the statutes is amended to read:

21 102.17 (2s) A party's attorney of record may issue a subpoena to compel the
22 attendance of a witness or the production of evidence. A subpoena issued by an
23 attorney must be in substantially the same form as provided in s. 805.07 (4) and must
24 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of

SENATE BILL 673**SECTION 63**

1 issuance, send a copy of the subpoena to the hearing examiner or other
2 representative of the ~~division~~ department responsible for conducting the proceeding.

3 **SECTION 64.** 102.17 (4) of the statutes is renumbered 102.17 (4) (a) and
4 amended to read:

5 102.17 (4) (a) Except as provided in this subsection and s. 102.555 (12) (b), in
6 the case of occupational disease, the right of an employee, the employee's legal
7 representative, ~~or a dependent,~~ the employee's employer or the employer's insurance
8 company, or other named party to proceed under this section shall not extend beyond
9 12 years after the date of the injury or death or after the date that compensation,
10 other than for treatment or burial expenses, was last paid, or would have been last
11 payable if no advancement were made, whichever date is latest, and in the case of
12 traumatic injury, that right shall not extend beyond 6 years after that date.

13 (b) In the case of occupational disease; a traumatic injury resulting in the loss
14 or total impairment of a hand or any part of the rest of the arm proximal to the hand
15 or of a foot or any part of the rest of the leg proximal to the foot, any loss of vision,
16 or any permanent brain injury; or a traumatic injury causing the need for an
17 artificial spinal disc or a total or partial knee or hip replacement, there shall be no
18 statute of limitations, except that benefits or treatment expense for an occupational
19 disease becoming due 12 years after the date of injury or death or last payment of
20 compensation, other than for treatment or burial expenses, shall be paid from the
21 work injury supplemental benefit fund under s. 102.65 and in the manner provided
22 in s. 102.66 and benefits or treatment expense for such a traumatic injury becoming
23 due 6 years after that date shall be paid from that fund and in that manner if the date
24 of injury or death or last payment of compensation, other than for treatment or burial
25 expenses, is before April 1, 2006.

SENATE BILL 673

1 (c) Payment of wages by the employer during disability or absence from work
2 to obtain treatment shall be considered payment of compensation for the purpose of
3 this section if the employer knew of the employee's condition and its alleged relation
4 to the employment.

5 **SECTION 65.** 102.17 (7) (b) of the statutes is amended to read:

6 102.17 (7) (b) Except as provided in par. (c), the ~~division~~ department shall
7 exclude from evidence testimony or certified reports from expert witnesses under
8 par. (a) offered by the party that raises the issue of loss of earning capacity if that
9 party failed to notify the ~~division~~ department and the other parties of interest, at
10 least 60 days before the date of the hearing, of the party's intent to provide the
11 testimony or reports and of the names of the expert witnesses involved. Except as
12 provided in par. (c), the ~~division~~ department shall exclude from evidence testimony
13 or certified reports from expert witnesses under par. (a) offered by a party of interest
14 in response to the party that raises the issue of loss of earning capacity if the
15 responding party failed to notify the ~~division~~ department and the other parties of
16 interest, at least 45 days before the date of the hearing, of the party's intent to provide
17 the testimony or reports and of the names of the expert witnesses involved.

18 **SECTION 66.** 102.17 (7) (c) of the statutes is amended to read:

19 102.17 (7) (c) Notwithstanding the notice deadlines provided in par. (b), the
20 ~~division~~ department may receive in evidence testimony or certified reports from
21 expert witnesses under par. (a) when the applicable notice deadline under par. (b) is
22 not met if good cause is shown for the delay in providing the notice required under
23 par. (b) and if no party is prejudiced by the delay.

24 **SECTION 67.** 102.17 (8) of the statutes is amended to read:

SENATE BILL 673**SECTION 67**

1 102.17 (8) Unless otherwise agreed to by all parties, an injured employee shall
2 file with the ~~division~~ department and serve on all parties at least 15 days before the
3 date of the hearing an itemized statement of all medical expenses and incidental
4 compensation under s. 102.42 claimed by the injured employee. The itemized
5 statement shall include, if applicable, information relating to any travel expenses
6 incurred by the injured employee in obtaining treatment including the injured
7 employee's destination, number of trips, round trip mileage, and meal and lodging
8 expenses. The ~~division~~ department may not admit into evidence any information
9 relating to medical expenses and incidental compensation under s. 102.42 claimed
10 by an injured employee if the injured employee failed to file with the ~~division~~
11 department and serve on all parties at least 15 days before the date of the hearing
12 an itemized statement of the medical expenses and incidental compensation under
13 s. 102.42 claimed by the injured employee, unless the ~~division~~ department is satisfied
14 that there is good cause for the failure to file and serve the itemized statement.

15 **SECTION 68.** 102.17 (9) of the statutes is created to read:

16 102.17 (9) (a) In this subsection:

17 1. "Fire fighter" means any person employed on a full-time basis by the state
18 or any political subdivision as a member or officer of a fire department, including the
19 first class cities and state fire marshal and deputies.

20 2. "Post-traumatic stress disorder" means that condition, as described in the
21 5th edition of the Diagnostic and Statistical Manual of Mental Disorders by the
22 American Psychiatric Association.

23 (b) In the case of a mental injury that is not accompanied by a physical injury
24 and that results in a diagnosis of post-traumatic stress disorder in a law enforcement
25 officer, as defined in s. 23.33 (1) (ig), or a fire fighter, the claim for compensation for

SENATE BILL 673

1 the mental injury, in order to be compensable under this chapter, is subject to all of
2 the following:

3 1. The mental injury must satisfy all of the following conditions:

4 a. The diagnosis of post-traumatic stress disorder is made by a licensed
5 psychiatrist or psychologist.

6 b. The conditions of liability under s. 102.03 (1) are proven by the
7 preponderance of the evidence.

8 2. The mental injury may not be a result of any of the following actions taken
9 in good faith by the employer:

10 a. A disciplinary action.

11 b. A work evaluation.

12 c. A job transfer.

13 d. A layoff.

14 e. A demotion.

15 f. A termination.

16 3. The diagnosis does not need to be based on unusual stress of greater
17 dimensions than the day-to-day emotional strain and tension experienced by
18 similarly situated employees.

19 **SECTION 69.** 102.175 (2) of the statutes is amended to read:

20 102.175 (2) If after a hearing or a prehearing conference the ~~division~~
21 department determines that an injured employee is entitled to compensation but
22 that there remains in dispute only the issue of which of 2 or more parties is liable for
23 that compensation, the ~~division~~ department may order one or more parties to pay
24 compensation in an amount, time, and manner as determined by the ~~division~~
25 department. If the ~~division~~ department later determines that another party is liable

SENATE BILL 673**SECTION 69**

1 for compensation, the ~~division~~ department shall order that other party to reimburse
2 any party that was ordered to pay compensation under this subsection.

3 **SECTION 70.** 102.175 (3) (c) of the statutes is amended to read:

4 102.175 (3) (c) Upon request of the department, ~~the division~~, the employer, or
5 the employer's worker's compensation insurer, an injured employee who claims
6 compensation for an injury causing permanent disability shall disclose all previous
7 findings of permanent disability or other impairments that are relevant to that
8 injury.

9 **SECTION 71.** 102.18 (1) (b) 1. of the statutes is amended to read:

10 102.18 (1) (b) 1. Within 90 days after the final hearing and close of the record,
11 the ~~division~~ department shall make and file its findings upon the ultimate facts
12 involved in the controversy, and its order, which shall state the ~~division's~~
13 department's determination as to the rights of the parties. Pending the final
14 determination of any controversy before it, the ~~division~~ department, after any
15 hearing, may, in its discretion, make interlocutory findings, orders, and awards,
16 which may be enforced in the same manner as final awards.

17 **SECTION 72.** 102.18 (1) (b) 2. of the statutes is amended to read:

18 102.18 (1) (b) 2. The ~~division~~ department may include in any interlocutory or
19 final award or order an order directing the employer or insurer to pay for any future
20 treatment that may be necessary to cure and relieve the employee from the effects
21 of the injury or to pay for a future course of instruction or other rehabilitation
22 training services provided under a rehabilitation training program developed under
23 s. 102.61 (1) or (1m).

24 **SECTION 73.** 102.18 (1) (b) 3. of the statutes is amended to read:

SENATE BILL 673

1 102.18 (1) (b) 3. If the ~~division~~ department finds that the employer or insurer
2 has not paid any amount that the employer or insurer was directed to pay in any
3 interlocutory order or award and that the nonpayment was not in good faith, the
4 ~~division~~ department may include in its final award a penalty not exceeding 25
5 percent of each amount that was not paid as directed.

6 **SECTION 74.** 102.18 (1) (bg) 1. of the statutes is amended to read:

7 102.18 (1) (bg) 1. If the ~~division~~ department finds under par. (b) that an insurer
8 or self-insured employer is liable under this chapter for any health services provided
9 to an injured employee by a health service provider, but that the reasonableness of
10 the fee charged by the health service provider is in dispute, the ~~division~~ department
11 may include in its order under par. (b) a determination made by the department
12 under s. 102.16 (2) as to the reasonableness of the fee or, if such a determination has
13 not yet been made, the ~~division~~ department may notify, or direct the insurer or
14 self-insured employer to notify, the health service provider under s. 102.16 (2) (b)
15 that the reasonableness of the fee is in dispute.

16 **SECTION 75.** 102.18 (1) (bg) 2. of the statutes is amended to read:

17 102.18 (1) (bg) 2. If the ~~division~~ department finds under par. (b) that an
18 employer or insurance carrier is liable under this chapter for any treatment provided
19 to an injured employee by a health service provider, but that the necessity of the
20 treatment is in dispute, the ~~division~~ department may include in its order under par.
21 (b) a determination made by the department under s. 102.16 (2m) as to the necessity
22 of the treatment or, if such a determination has not yet been made, the ~~division~~
23 department may notify, or direct the employer or insurance carrier to notify, the
24 health service provider under s. 102.16 (2m) (b) that the necessity of the treatment
25 is in dispute.

SENATE BILL 673**SECTION 76**

1 **SECTION 76.** 102.18 (1) (bg) 3. of the statutes is amended to read:

2 102.18 (1) (bg) 3. If the ~~division~~ department finds under par. (b) that an insurer
3 or self-insured employer is liable under this chapter for the cost of a prescription
4 drug dispensed under s. 102.425 (2) for outpatient use by an injured employee, but
5 that the reasonableness of the amount charged for that prescription drug is in
6 dispute, the ~~division~~ department may include in its order under par. (b) a
7 determination made by the department under s. 102.425 (4m) as to the
8 reasonableness of the prescription drug charge or, if such a determination has not
9 yet been made, the ~~division~~ department may notify, or direct the insurer or
10 self-insured employer to notify, the pharmacist or practitioner dispensing the
11 prescription drug under s. 102.425 (4m) (b) that the reasonableness of the
12 prescription drug charge is in dispute.

13 **SECTION 77.** 102.18 (1) (bp) of the statutes is amended to read:

14 102.18 (1) (bp) If the ~~division~~ department determines that the employer or
15 insurance carrier suspended, terminated, or failed to make payments or failed to
16 report an injury as a result of malice or bad faith, the ~~division~~ department may
17 include a penalty in an award to an employee for each event or occurrence of malice
18 or bad faith. That penalty is the exclusive remedy against an employer or insurance
19 carrier for malice or bad faith. If the penalty is imposed for an event or occurrence
20 of malice or bad faith that causes a payment that is due an injured employee to be
21 delayed in violation of s. 102.22 (1) or overdue in violation of s. 628.46 (1), the ~~division~~
22 department may not also order an increased payment under s. 102.22 (1) or the
23 payment of interest under s. 628.46 (1). The ~~division~~ department may award an
24 amount that the ~~division~~ department considers just, not to exceed the lesser of 200
25 percent of total compensation due or \$30,000 for each event or occurrence of malice

SENATE BILL 673

1 or bad faith. The ~~division~~ department may assess the penalty against the employer,
2 the insurance carrier, or both. Neither the employer nor the insurance carrier is
3 liable to reimburse the other for the penalty amount. The ~~division~~ department may,
4 by rule, define actions that demonstrate malice or bad faith.

5 **SECTION 78.** 102.18 (1) (bw) of the statutes is amended to read:

6 102.18 (1) (bw) If an insurer, a self-insured employer, or, if applicable, the
7 uninsured employers fund pays compensation to an employee in excess of its liability
8 and another insurer or self-insured employer is liable for all or part of the excess
9 payment, the department ~~or the division~~ may order the insurer or self-insured
10 employer that is liable for that excess payment to reimburse the insurer or
11 self-insured employer that made the excess payment or, if applicable, the uninsured
12 employers fund.

13 **SECTION 79.** 102.18 (1) (c) of the statutes is amended to read:

14 102.18 (1) (c) If 2 or more examiners have conducted a formal hearing on a claim
15 and are unable to agree on the order or award to be issued, the decision shall be the
16 decision of the majority. If the examiners are equally divided on the decision, the
17 ~~division~~ department may appoint an additional examiner who shall review the
18 record and consult with the other examiners concerning their impressions of the
19 credibility of the evidence. Findings of fact and an order or award may then be issued
20 by a majority of the examiners.

21 **SECTION 80.** 102.18 (1) (e) of the statutes is amended to read:

22 102.18 (1) (e) Except as provided in s. 102.21, if the department ~~or the division~~
23 orders a party to pay an award of compensation, the party shall pay the award no
24 later than 21 days after the date on which the order is mailed to the last-known
25 address of the party, unless the party files a petition for review under sub. (3). This

SENATE BILL 673

1 paragraph applies to all awards of compensation ordered by the department ~~or the~~
2 ~~division~~, whether the award results from a hearing, the default of a party, or a
3 compromise or stipulation confirmed by the department ~~or the division~~.

4 **SECTION 81.** 102.18 (2) of the statutes is repealed and recreated to read:

5 102.18 (2) The department shall have and maintain on its staff such examiners
6 as are necessary to hear and decide claims and to assist in the effective
7 administration of this chapter. Those examiners shall be attorneys and may be
8 designated as administrative law judges. Those examiners may make findings and
9 orders and may approve, review, set aside, modify, or confirm stipulations of
10 settlement or compromises of claims for compensation.

11 **SECTION 82.** 102.18 (3) of the statutes is amended to read:

12 102.18 (3) A party in interest may petition the commission for review of an
13 examiner's decision awarding or denying compensation if the department, ~~the~~
14 ~~division~~, or the commission receives the petition within 21 days after the department
15 ~~or the division~~ mailed a copy of the examiner's findings and order to the last-known
16 addresses of the parties in interest. The commission shall dismiss a petition that is
17 not filed within those 21 days unless the petitioner shows that the petition was filed
18 late for a reason that was beyond the petitioner's control. If no petition is filed within
19 those 21 days, the findings or order shall be considered final unless set aside,
20 reversed, or modified by the examiner within that time. If the findings or order are
21 set aside by the examiner, the status shall be the same as prior to ~~the setting aside~~
22 ~~of the findings or order~~ that were set aside. If the findings or order are reversed or
23 modified by the examiner, the time for filing a petition commences on the date on
24 which notice of the reversal or modification is mailed to the last-known addresses
25 of the parties in interest. The commission shall either affirm, reverse, set aside, or

SENATE BILL 673

1 modify the findings or order, in whole or in part, or direct the taking of additional
2 evidence. The commission's action shall be based on a review of the evidence
3 submitted.

4 **SECTION 83.** 102.18 (4) (c) 3. of the statutes is amended to read:

5 102.18 (4) (c) 3. Remand the case to the department ~~or the division~~ for further
6 proceedings.

7 **SECTION 84.** 102.18 (4) (d) of the statutes is amended to read:

8 102.18 (4) (d) While a petition for review by the commission is pending or after
9 entry of an order or award by the commission but before commencement of an action
10 for judicial review or expiration of the period in which to commence an action for
11 judicial review, the commission shall remand any compromise presented to it to the
12 department ~~or the division~~ for consideration and approval or rejection under s.
13 102.16 (1). Presentation of a compromise does not affect the period in which to
14 commence an action for judicial review.

15 **SECTION 85.** 102.18 (5) of the statutes is amended to read:

16 102.18 (5) If it appears to the ~~division~~ department that a mistake may have
17 been made as to cause of injury in the findings, order, or award upon an alleged injury
18 based on accident, when in fact the employee was suffering from an occupational
19 disease, within 3 years after the date of the findings, order, or award the ~~division~~
20 department may, upon its own motion, with or without hearing, set aside the
21 findings, order or award, or the ~~division~~ department may take that action upon
22 application made within those 3 years. After an opportunity for hearing, the ~~division~~
23 department may, if in fact the employee is suffering from disease arising out of the
24 employment, make new findings, and a new order or award, or the ~~division~~
25 department may reinstate the previous findings, order, or award.

SENATE BILL 673

1 **SECTION 86.** 102.18 (6) of the statutes is amended to read:

2 102.18 (6) In case of disease arising out of employment, the ~~division~~
3 department may from time to time review its findings, order, or award, and make
4 new findings, or a new order or award, based on the facts regarding disability or
5 otherwise as those facts may appear at the time of the review. This subsection shall
6 not affect the application of the limitation in s. 102.17 (4).

7 **SECTION 87.** 102.195 of the statutes is amended to read:

8 **102.195 Employees confined in institutions; payment of benefits.** In
9 case an employee is adjudged mentally ill or incompetent or convicted of a felony, and
10 is confined in a public institution and has wholly dependent upon the employee for
11 support a person whose dependency is determined as if the employee were deceased,
12 compensation payable during the period of the employee's confinement may be paid
13 to the employee and the employee's dependents in such manner, for such time, and
14 in such amount as the department ~~or division~~ by order provides.

15 **SECTION 88.** 102.22 (1) of the statutes is amended to read:

16 102.22 (1) If the employer or his or her insurer inexcusably delays in making
17 the first payment that is due an injured employee for more than 30 days after the date
18 on which the employee leaves work as a result of an injury and if the amount due is
19 \$500 or more, the payments as to which the delay is found shall be increased by 10
20 percent. If the employer or his or her insurer inexcusably delays in making the first
21 payment that is due an injured employee for more than 14 days after the date on
22 which the employee leaves work as a result of an injury, the payments as to which
23 the delay is found may be increased by 10 percent. If the employer or his or her
24 insurer inexcusably delays for any length of time in making any other payment that
25 is due an injured employee, the payments as to which the delay is found may be

SENATE BILL 673

1 increased by 10 percent. If the delay is chargeable to the employer and not to the
2 insurer, s. 102.62 applies and the relative liability of the parties shall be fixed and
3 discharged as provided in that section. The department ~~or the division~~ may also
4 order the employer or insurance carrier to reimburse the employee for any finance
5 charges, collection charges, or interest that the employee paid as a result of the
6 inexcusable delay by the employer or insurance carrier.

7 **SECTION 89.** 102.22 (2) of the statutes is amended to read:

8 102.22 (2) If any sum that the department ~~or the division~~ orders to be paid is
9 not paid when due, that sum shall bear interest at the rate of 10 percent per year.
10 The state is liable for interest on awards issued against it under this chapter. The
11 department ~~or the division~~ has jurisdiction to issue an award for payment of interest
12 under this subsection at any time within one year after the date of its order or, if the
13 order is appealed, within one year after final court determination. Interest awarded
14 under this subsection becomes due from the date the examiner's order becomes final
15 or from the date of a decision by the commission, whichever is later.

16 **SECTION 90.** 102.23 (2) of the statutes is amended to read:

17 102.23 (2) Upon the trial of an action for review of an order or award, the court
18 shall disregard any irregularity or error of the commission, or the the department,
19 ~~or the division~~ unless it is made to affirmatively appear that the plaintiff was
20 damaged by that irregularity or error.

21 **SECTION 91.** 102.23 (3) of the statutes is amended to read:

22 102.23 (3) The record in any case shall be transmitted to the department ~~or the~~
23 ~~division~~ within 5 days after expiration of the time for appeal from the order or
24 judgment of the court, unless an appeal is taken from that order or judgment.

25 **SECTION 92.** 102.23 (5) of the statutes is amended to read:

SENATE BILL 673**SECTION 92**

1 102.23 (5) When an action for review involves only the question of liability as
2 between the employer and one or more insurance companies or as between several
3 insurance companies, a party that has been ordered by the department, ~~the division,~~
4 the commission, or a court to pay compensation is not relieved from paying
5 compensation as ordered.

6 **SECTION 93.** 102.24 (2) of the statutes is amended to read:

7 102.24 (2) After the commencement of an action to review any order or award
8 of the commission, the parties may have the record remanded by the court for such
9 time and under such condition as the parties may provide, for the purpose of having
10 the department ~~or the division~~ act upon the question of approving or disapproving
11 any settlement or compromise that the parties may desire to have so approved. If
12 approved, the action shall be at an end and judgment may be entered upon the
13 approval as upon an award. If not approved, the department ~~or the division~~ shall
14 immediately return the record to the circuit court and the action shall proceed as if
15 no remand had been made.

16 **SECTION 94.** 102.25 (1) of the statutes is amended to read:

17 102.25 (1) Any party aggrieved by a judgment entered upon the review of any
18 order or award may appeal the judgment within the period specified in s. 808.04 (1).
19 A trial court may not require the commission or any party to the action to execute,
20 serve, or file an undertaking under s. 808.07 or to serve, or secure approval of, a
21 transcript of the notes of the stenographic reporter or the tape of the recording
22 machine. The state is a party aggrieved under this subsection if a judgment is
23 entered upon the review confirming any order or award against the state. At any
24 time before the case is set down for hearing in the court of appeals or the supreme
25 court, the parties may have the record remanded by the court to the department ~~or~~

SENATE BILL 673

1 ~~the division~~ in the same manner and for the same purposes as provided for
2 remanding from the circuit court to the department ~~or the division~~ under s. 102.24
3 (2).

4 **SECTION 95.** 102.26 (2) of the statutes is amended to read:

5 102.26 (2) Unless previously authorized by the department ~~or the division~~, no
6 fee may be charged or received for the enforcement or collection of any claim for
7 compensation nor may any contract for that enforcement or collection be enforceable
8 when that fee, inclusive of all taxable attorney fees paid or agreed to be paid for that
9 enforcement or collection, exceeds 20 percent of the amount at which the claim is
10 compromised or of the amount awarded, adjudged, or collected, except that in cases
11 of admitted liability in which there is no dispute as to the amount of compensation
12 due and in which no hearing or appeal is necessary, the fee charged may not exceed
13 10 percent, but not to exceed \$250, of the amount at which the claim is compromised
14 or of the amount awarded, adjudged, or collected. The limitation as to fees shall
15 apply to the combined charges of attorneys, solicitors, representatives, and adjusters
16 who knowingly combine their efforts toward the enforcement or collection of any
17 compensation claim.

18 **SECTION 96.** 102.26 (3) (b) 1. of the statutes is amended to read:

19 102.26 (3) (b) 1. Subject to sub. (2), upon application of any interested party,
20 the department ~~or the division~~ may fix the fee of the claimant's attorney or
21 representative and provide in the award for that fee to be paid directly to the attorney
22 or representative.

23 **SECTION 97.** 102.26 (3) (b) 3. of the statutes is amended to read:

24 102.26 (3) (b) 3. The claimant may request the insurer or self-insured employer
25 to pay any compensation that is due the claimant by depositing the payment directly

SENATE BILL 673

1 into an account maintained by the claimant at a financial institution. If the insurer
2 or self-insured employer agrees to the request, the insurer or self-insured employer
3 may deposit the payment by direct deposit, electronic funds transfer, or any other
4 money transfer technique approved by the department ~~or the division~~. The claimant
5 may revoke a request under this subdivision at any time by providing appropriate
6 written notice to the insurer or self-insured employer.

7 **SECTION 98.** 102.26 (4) of the statutes is amended to read:

8 102.26 (4) Any attorney or other person who charges or receives any fee in
9 violation of this section may be required to forfeit double the amount retained by the
10 attorney or other person, which forfeiture shall be collected by the state in an action
11 in debt upon complaint of the department ~~or the division~~. Out of the sum recovered
12 the court shall direct payment to the injured party of the amount of the overcharge.

13 **SECTION 99.** 102.27 (2) (b) of the statutes is amended to read:

14 102.27 (2) (b) If a governmental unit provides public assistance under ch. 49
15 to pay medical costs or living expenses related to a claim under this chapter and if
16 the governmental unit has given the parties to the claim written notice stating that
17 the governmental unit provided the assistance and the cost of that assistance, the
18 department ~~or the division~~ shall order the employer or insurance carrier owing
19 compensation to reimburse that governmental unit for the amount of assistance the
20 governmental unit provided or two-thirds of the amount of the award or payment
21 remaining after deduction of attorney fees and any other fees or costs chargeable
22 under ch. 102, whichever is less. The department shall comply with this paragraph
23 when making payments under s. 102.81.

24 **SECTION 100.** 102.28 (3) (c) of the statutes is amended to read:

SENATE BILL 673

1 102.28 (3) (c) An employee who has signed a waiver under par. (a) 1. and an
2 affidavit under par. (a) 2., who sustains an injury that, but for that waiver, the
3 employer would be liable for under s. 102.03, who at the time of the injury was a
4 member of a religious sect whose authorized representative has filed an affidavit
5 under par. (a) 3. and an agreement under par. (a) 4., and who as a result of the injury
6 becomes dependent on the religious sect for financial and medical assistance, or the
7 employee's dependent, may request a hearing under s. 102.17 (1) to determine if the
8 religious sect has provided the employee and his or her dependents with a standard
9 of living and medical treatment that are reasonable when compared to the general
10 standard of living and medical treatment for members of the religious sect. If, after
11 hearing, the ~~division~~ department determines that the religious sect has not provided
12 that standard of living or medical treatment, or both, the ~~division~~ department may
13 order the religious sect to provide alternative benefits to that employee or his or her
14 dependent, or both, in an amount that is reasonable under the circumstances, but
15 not in excess of the benefits that the employee or dependent could have received
16 under this chapter but for the waiver under par. (a) 1.

17 **SECTION 101.** 102.28 (4) (c) of the statutes is amended to read:

18 102.28 (4) (c) After a hearing under par. (b), or without a hearing if one is not
19 requested, the ~~division~~ department may issue an order to an employer to cease
20 operations on a finding that the employer is an uninsured employer. ~~If no hearing~~
21 ~~is requested, the department may issue such an order.~~

22 **SECTION 102.** 102.29 (1) (b) (intro.) of the statutes is amended to read:

23 102.29 (1) (b) (intro.) If a party entitled to notice cannot be found, the
24 department shall become the agent of that party for the giving of a notice as required
25 in par. (a) and the notice, when given to the department, shall include an affidavit

SENATE BILL 673

1 setting forth the facts, including the steps taken to locate that party. Each party shall
2 have an equal voice in the prosecution of the claim, and any disputes arising shall
3 be passed upon by the court before whom the case is pending, and if no action is
4 pending, then by a court of record or by the department ~~or the division~~. If notice is
5 given as provided in par. (a), the liability of the tort-feasor shall be determined as
6 to all parties having a right to make claim and, irrespective of whether or not all
7 parties join in prosecuting the claim, the proceeds of the claim shall be divided as
8 follows:

9 **SECTION 103.** 102.29 (1) (c) of the statutes is amended to read:

10 102.29 (1) (c) If both the employee or the employee's personal representative
11 or other person entitled to bring action, and the employer, compensation insurer, or
12 department, join in the pressing of said claim and are represented by counsel, the
13 attorney fees allowed as a part of the costs of collection shall be, unless otherwise
14 agreed upon, divided between the attorneys for those parties as directed by the court
15 or by the department ~~or the division~~.

16 **SECTION 104.** 102.29 (1) (d) of the statutes is amended to read:

17 102.29 (1) (d) A settlement of a 3rd-party claim shall be void unless the
18 settlement and the distribution of the proceeds of the settlement are approved by the
19 court before whom the action is pending or, if no action is pending, then by a court
20 of record or by the department ~~or the division~~.

21 **SECTION 105.** 102.29 (6m) (a) 1m. of the statutes is created to read:

22 102.29 (6m) (a) 1m. The employee leasing company that employs the leased
23 employee.

24 **SECTION 106.** 102.29 (6m) (a) 3. of the statutes is amended to read:

SENATE BILL 673

1 102.29 **(6m)** (a) 3. Any employee of the client, the employee leasing company
2 that employs the leased employee, or of ~~that other~~ an employee leasing company
3 described in subd. 2., unless the leased employee who has the right to make a claim
4 for compensation would have a right under s. 102.03 (2) to bring an action against
5 the employee of the client, the employee leasing company that employs the leased
6 employee, or the leased employee of the ~~other~~ employee leasing company described
7 in subd. 2., if the employees and leased employees were coemployees.

8 **SECTION 107.** 102.30 (7) (a) of the statutes is amended to read:

9 102.30 **(7)** (a) The department ~~or the division~~ may order direct reimbursement
10 out of the proceeds payable under this chapter for payments made under a
11 nonindustrial insurance policy covering the same disability and expenses
12 compensable under s. 102.42 when the claimant consents or when it is established
13 that the payments under the nonindustrial insurance policy were improper. No
14 attorney fee is due with respect to that reimbursement.

15 **SECTION 108.** 102.315 (1) (c) of the statutes is amended to read:

16 102.315 **(1)** (c) “Divided workforce” means a workforce in which some of the
17 employees of a client are leased employees and some of the employees of the client
18 are not leased employees, but does not include a workforce with respect to a client
19 that has elected to provide insurance coverage for leased employees under sub. (2m).

20 **SECTION 109.** 102.315 (2) of the statutes is amended to read:

21 102.315 **(2)** **EMPLOYEE LEASING COMPANY LIABLE.** ~~An~~ Except as otherwise
22 provided in an employee leasing agreement that meets the requirements of sub.
23 (2m), an employee leasing company is liable under s. 102.03 for all compensation
24 payable under this chapter to a leased employee, including any payments required
25 under s. 102.16 (3), 102.18 (1) (b) 3. or (bp), 102.22 (1), 102.35 (3), 102.57, or 102.60.

SENATE BILL 673**SECTION 109**

1 If a client that makes an election under sub. (2m) (a) terminates the election, fails
2 to provide the required coverage, or allows coverage to lapse, the employee leasing
3 company is liable under s. 102.03 as set forth in this subsection. Except as permitted
4 allowed under s. 102.29, an employee leasing company may not seek or receive
5 reimbursement from another employer for any payments made as a result of that
6 liability. An employee leasing company is not liable under s. 102.03 for any
7 compensation payable under this chapter to an employee of a client who is not a
8 leased employee.

9 **SECTION 110.** 102.315 (2e) of the statutes is created to read:

10 102.315 (2e) TERMINATION OF EMPLOYEE LEASING AGREEMENT. If an employee
11 leasing company terminates an employee leasing agreement with a client that has
12 made an election under sub. (2m) (a), the company shall provide notice of the
13 termination of an employee leasing agreement to the department and the client, on
14 a form prescribed by the department, at least 30 days before the termination of the
15 employee leasing agreement. The notice provided under this subsection must
16 contain all of the following information:

17 (a) The name, mailing address, and federal employer identification number of
18 the employee leasing company.

19 (b) The name, mailing address, and federal employer identification number of
20 the client.

21 (c) The effective date of the termination of the employee leasing agreement.

22 (d) The signatures of the authorized representatives of the client and the
23 employee leasing company.

24 **SECTION 111.** 102.315 (2m) of the statutes is created to read:

SENATE BILL 673

1 102.315 **(2m)** CLIENT ELECTION TO PROVIDE INSURANCE COVERAGE. (a) A client
2 may elect to provide insurance coverage under this chapter for leased employees.
3 Such an election must be provided in an employee leasing agreement, and the leased
4 employees must be insured in the voluntary market and not under a mandatory
5 risk-sharing plan under s. 619.01.

6 (b) The client shall provide notice of an election or termination of an election
7 under par. (a) to the department and the employee leasing company on a form
8 prescribed by the department at least 30 days before the effective date of the election
9 or termination of the election. The notice provided under this subsection must
10 contain all of the following information:

11 1. The name, mailing address, and federal employer identification number of
12 the client.

13 2. The name, mailing address, and federal employer identification number of
14 the employee leasing company.

15 3. The effective date of the employee leasing agreement.

16 4. The signatures of the authorized representatives of the client and the
17 employee leasing company.

18 (c) A client that elects to provide insurance coverage under par. (a) is liable
19 under s. 102.03 for all compensation payable to a leased employee, including any
20 payments required under s. 102.16 (3), 102.18 (1) (b) 3. or (bp), 102.22 (1), 102.35 (3),
21 102.57, or 102.60.

22 (d) If a client makes an election under par. (a), the employee leasing company
23 shall include the client's federal employer identification number on any reports to the
24 department for the purposes of administering the worker's compensation program
25 or the unemployment insurance program under ch. 108.

SENATE BILL 673

1 (e) The experience rating under the standards and criteria under ss. 626.11 and
2 626.12 remain with a client that makes an election under par. (a).

3 **SECTION 112.** 102.315 (2s) of the statutes is created to read:

4 102.315 (2s) CLAIM REPORTING. Any claim filed under this chapter for a leased
5 employee shall include the client's federal employer identification number.

6 **SECTION 113.** 102.32 (1m) (intro.) of the statutes is amended to read:

7 102.32 (1m) (intro.) In any case in which compensation payments for an injury
8 have extended or will extend over 6 months or more after the date of the injury or in
9 any case in which death benefits are payable, any party in interest may, in the
10 discretion of the department ~~or the division~~, be discharged from, or compelled to
11 guarantee, future compensation payments by doing any of the following:

12 **SECTION 114.** 102.32 (1m) (a) of the statutes is amended to read:

13 102.32 (1m) (a) Depositing the present value of the total unpaid compensation
14 upon a 5 percent interest discount basis with a credit union, savings bank, savings
15 and loan association, bank, or trust company designated by the department ~~or the~~
16 ~~division~~.

17 **SECTION 115.** 102.32 (1m) (c) of the statutes is amended to read:

18 102.32 (1m) (c) Making payment in gross upon a 5 percent interest discount
19 basis to be approved by the department ~~or the division~~.

20 **SECTION 116.** 102.32 (1m) (d) of the statutes is amended to read:

21 102.32 (1m) (d) In cases in which the time for making payments or the amounts
22 of payments cannot be definitely determined, furnishing a bond, or other security,
23 satisfactory to the department ~~or the division~~ for the payment of compensation as
24 may be due or become due. The acceptance of the bond, or other security, and the form
25 and sufficiency of the bond or other security, shall be subject to the approval of the

SENATE BILL 673

1 department ~~or the division~~. If the employer or insurer is unable or fails to
2 immediately procure the bond, the employer or insurer, in lieu of procuring the bond,
3 shall deposit with a credit union, savings bank, savings and loan association, bank,
4 or trust company designated by the department ~~or the division~~ the maximum
5 amount that may reasonably become payable in those cases, to be determined by the
6 department ~~or the division~~ at amounts consistent with the extent of the injuries and
7 the law. The bonds and deposits may be reduced only to satisfy claims and may be
8 withdrawn only after the claims which they are to guarantee are fully satisfied or
9 liquidated under par. (a), (b), or (c).

10 **SECTION 117.** 102.32 (5) of the statutes is amended to read:

11 102.32 (5) Any insured employer may, in the discretion of the department ~~or~~
12 ~~the division~~, compel the insurer to discharge, or to guarantee payment of, the
13 employer's liabilities in any case described in sub. (1m) and by that discharge or
14 guarantee release the employer from liability for compensation in that case, except
15 that if for any reason a bond furnished or deposit made under sub. (1m) (d) does not
16 fully protect the beneficiary of the bond or deposit, the compensation insurer or
17 insured employer, as the case may be, shall still be liable to that beneficiary.

18 **SECTION 118.** 102.32 (6m) of the statutes is amended to read:

19 102.32 (6m) The department ~~or the division~~ may direct an advance on a
20 payment of unaccrued compensation for permanent disability or death benefits if the
21 department ~~or the division~~ determines that the advance payment is in the best
22 interest of the injured employee or the employee's dependents. In directing the
23 advance, the department ~~or the division~~ shall give the employer or the employer's
24 insurer an interest credit against its liability. The credit shall be computed at 5

SENATE BILL 673

1 percent. An injured employee or dependent may receive no more than 3 advance
2 payments per calendar year.

3 **SECTION 119.** 102.32 (7) of the statutes is amended to read:

4 102.32 (7) No lump sum settlement shall be allowed in any case of permanent
5 total disability upon an estimated life expectancy, except upon consent of all parties,
6 after hearing and finding by the ~~division~~ department that the interests of the injured
7 employee will be conserved by the lump sum settlement.

8 **SECTION 120.** 102.33 (1) of the statutes is amended to read:

9 102.33 (1) The department ~~and the division~~ shall print and furnish free to any
10 employer or employee any blank forms that are necessary to facilitate efficient
11 administration of this chapter. The department ~~and the division~~ shall keep any
12 record books or records that are necessary for the proper and efficient administration
13 of this chapter.

14 **SECTION 121.** 102.33 (2) (a) of the statutes is amended to read:

15 102.33 (2) (a) Except as provided in pars. (b) and (c), the records of the
16 department, ~~the division,~~ and the commission, related to the administration of this
17 chapter are subject to inspection and copying under s. 19.35 (1).

18 **SECTION 122.** 102.33 (2) (b) (intro.) of the statutes is amended to read:

19 102.33 (2) (b) (intro.) Except as provided in this paragraph and par. (d), a record
20 maintained by the department, ~~the division,~~ or the commission that reveals the
21 identity of an employee who claims worker's compensation benefits, the nature of the
22 employee's claimed injury, the employee's past or present medical condition, the
23 extent of the employee's disability, or the amount, type, or duration of benefits paid
24 to the employee and a record maintained by the department that reveals any
25 financial information provided to the department by a self-insured employer or by

SENATE BILL 673

1 an applicant for exemption under s. 102.28 (2) (b) are confidential and not open to
2 public inspection or copying under s. 19.35 (1). The department,~~the division,~~ or the
3 commission may deny a request made under s. 19.35 (1) or, subject to s. 102.17 (2m)
4 and (2s), refuse to honor a subpoena issued by an attorney of record in a civil or
5 criminal action or special proceeding to inspect and copy a record that is confidential
6 under this paragraph, unless one of the following applies:

7 **SECTION 123.** 102.33 (2) (b) 1. of the statutes is amended to read:

8 102.33 (2) (b) 1. The requester is the employee who is the subject of the record
9 or an attorney or authorized agent of that employee. An attorney or authorized agent
10 of an employee who is the subject of a record shall provide a written authorization
11 for inspection and copying from the employee if requested by the department,~~the~~
12 ~~division,~~ or the commission.

13 **SECTION 124.** 102.33 (2) (b) 2. of the statutes is amended to read:

14 102.33 (2) (b) 2. The record that is requested contains confidential information
15 concerning a worker's compensation claim and the requester is an insurance carrier
16 or employer that is a party to any worker's compensation claim involving the same
17 employee or an attorney or authorized agent of that insurance carrier or employer,
18 except that the department,~~the division,~~ or the commission is not required to do a
19 random search of its records and may require the requester to provide the
20 approximate date of the injury and any other relevant information that would assist
21 the department,~~the division,~~ or the commission in finding the record requested. An
22 attorney or authorized agent of an insurance carrier or employer that is a party to
23 an employee's worker's compensation claim shall provide a written authorization for
24 inspection and copying from the insurance carrier or employer if requested by the
25 department,~~the division,~~ or the commission.

SENATE BILL 673

1 **SECTION 125.** 102.33 (2) (b) 4. of the statutes is amended to read:

2 102.33 (2) (b) 4. A court of competent jurisdiction in this state orders the
3 department, ~~the division,~~ or the commission to release the record.

4 **SECTION 126.** 102.33 (2) (b) 7. of the statutes is created to read:

5 102.33 (2) (b) 7. The requester is the department of health services, a county
6 department of social services under s. 46.215 or 46.22, or a county department of
7 human services under s. 46.23, and the request is limited to the name and address
8 of the employee who is the subject of the record, the name and address of the
9 employee's employer, and any financial information about that employee contained
10 in the record.

11 **SECTION 127.** 102.33 (2) (c) of the statutes is amended to read:

12 102.33 (2) (c) A record maintained by the department, ~~the division,~~ or the
13 commission that contains employer or insurer information obtained from the
14 Wisconsin compensation rating bureau under s. 102.31 (8) or 626.32 (1) (a) is
15 confidential and not open to public inspection or copying under s. 19.35 (1) unless the
16 Wisconsin compensation rating bureau authorizes public inspection or copying of
17 that information.

18 **SECTION 128.** 102.33 (2) (d) 2. of the statutes is amended to read:

19 102.33 (2) (d) 2. The department, ~~the division,~~ or the commission may release
20 information that is confidential under par. (b) to a government unit, an institution
21 of higher education, or a nonprofit research organization for purposes of research and
22 may release information that is confidential under par. (c) to those persons for that
23 purpose if the Wisconsin compensation rating bureau authorizes that release. A
24 government unit, institution of higher education, or nonprofit research organization
25 may not permit inspection or disclosure of any information released to it under this

SENATE BILL 673

1 subdivision that is confidential under par. (b) unless the department, ~~the division,~~
2 or the commission authorizes that inspection or disclosure and may not permit
3 inspection or disclosure of any information released to it under this subdivision that
4 is confidential under par. (c) unless the department, ~~the division,~~ or the commission,
5 and the Wisconsin compensation rating bureau, authorize the inspection or
6 disclosure. A government unit, institution of higher education, or nonprofit research
7 organization that obtains any confidential information under this subdivision for
8 purposes of research shall provide the results of that research free of charge to the
9 person that released or authorized the release of that information.

10 **SECTION 129.** 102.35 (3) of the statutes is amended to read:

11 102.35 (3) Any employer who without reasonable cause refuses to rehire an
12 employee who is injured in the course of employment, when suitable employment is
13 available within the employee's physical and mental limitations, upon order of the
14 department ~~or the division,~~ has exclusive liability to pay to the employee, in addition
15 to other benefits, the wages lost during the period of such refusal, not exceeding one
16 year's wages. In determining the availability of suitable employment the
17 continuance in business of the employer shall be considered and any written rules
18 promulgated by the employer with respect to seniority or the provisions of any
19 collective bargaining agreement with respect to seniority shall govern.

20 **SECTION 130.** 102.42 (1) of the statutes is amended to read:

21 102.42 (1) TREATMENT OF EMPLOYEE. The Subject to the limitations under sub.
22 (1p), the employer shall supply such medical, surgical, chiropractic, psychological,
23 podiatric, dental, and hospital treatment, medicines, medical and surgical supplies,
24 crutches, artificial members, appliances, and training in the use of artificial
25 members and appliances, or, at the option of the employee, Christian Science

SENATE BILL 673

1 treatment in lieu of medical treatment, medicines, and medical supplies, as may be
2 reasonably required to cure and relieve from the effects of the injury, and to attain
3 efficient use of artificial members and appliances, and in case of the employer's
4 neglect or refusal seasonably to do so, or in emergency until it is practicable for the
5 employee to give notice of injury, the employer shall be liable for the reasonable
6 expense incurred by or on behalf of the employee in providing such treatment,
7 medicines, supplies, and training. When the employer has knowledge of the injury
8 and the necessity for treatment, the employer's failure to tender the necessary
9 treatment, medicines, supplies, and training constitutes such neglect or refusal. The
10 employer shall also be liable for reasonable expense incurred by the employee for
11 necessary treatment to cure and relieve the employee from the effects of occupational
12 disease prior to the time that the employee knew or should have known the nature
13 of his or her disability and its relation to employment, and as to such treatment subs.
14 (2) and (3) shall not apply. The obligation to furnish such treatment and appliances
15 shall continue as required to prevent further deterioration in the condition of the
16 employee or to maintain the existing status of such condition whether or not healing
17 is completed.

18 **SECTION 131.** 102.42 (1m) of the statutes is amended to read:

19 102.42 **(1m)** LIABILITY FOR UNNECESSARY TREATMENT. If an employee who has
20 sustained a compensable injury undertakes in good faith invasive treatment that is
21 generally medically acceptable, but that is unnecessary, the employer shall pay
22 disability indemnity for all disability incurred as a result of that treatment. An
23 employer is not liable for disability indemnity for any disability incurred as a result
24 of any unnecessary treatment undertaken in good faith that is noninvasive or not
25 medically acceptable. This subsection applies to all findings that an employee has

SENATE BILL 673

1 sustained a compensable injury, whether the finding results from a hearing, the
2 default of a party, or a compromise or stipulation confirmed by the department ~~or the~~
3 ~~division~~.

4 **SECTION 132.** 102.42 (1p) of the statutes is created to read:

5 102.42 (1p) LIABILITY FOR TREATMENT OF CERTAIN MENTAL INJURIES. The employer
6 of an employee whose injury is a mental injury that is compensable under s. 102.17
7 (9) is liable for the employee's treatment of the mental injury for no more than 32
8 weeks after the injury is first reported.

9 **SECTION 133.** 102.42 (6) of the statutes is amended to read:

10 102.42 (6) TREATMENT REJECTED BY EMPLOYEE. Unless the employee has elected
11 Christian Science treatment in lieu of medical, surgical, dental, or hospital
12 treatment, no compensation shall be payable for the death or disability of an
13 employee, if the death is caused, or insofar as the disability may be aggravated,
14 caused, or continued by an unreasonable refusal or neglect to submit to or follow any
15 competent and reasonable medical, surgical, or dental treatment or, in the case of
16 tuberculosis, by refusal or neglect to submit to or follow hospital or medical
17 treatment when found by the department ~~or the division~~ to be necessary. The right
18 to compensation accruing during a period of refusal or neglect to submit to or follow
19 hospital or medical treatment when found by the department ~~or the division~~ to be
20 necessary in the case of tuberculosis shall be barred, irrespective of whether
21 disability was aggravated, caused, or continued by that refusal or neglect.

22 **SECTION 134.** 102.42 (8) of the statutes is amended to read:

23 102.42 (8) AWARD TO STATE EMPLOYEE. Whenever the department ~~or the division~~
24 makes an award on behalf of a state employee, the department ~~or the division~~ shall
25 file duplicate copies of the award with the subunit of the department of

SENATE BILL 673

1 administration responsible for risk management. Upon receipt of the copies of the
2 award, the department of administration shall promptly issue a voucher in payment
3 of the award from the proper appropriation under s. 20.865 (1) (fm), (kr) or (ur), and
4 shall transmit one copy of the voucher and the award to the officer, department, or
5 agency by whom the affected employee is employed.

6 **SECTION 135.** 102.425 (4m) (a) of the statutes is amended to read:

7 102.425 (4m) (a) The department has jurisdiction under this subsection, ~~the~~
8 ~~department and the division have jurisdiction under s. and ss.~~ 102.16 (1m) (c), and
9 ~~the division has jurisdiction under s.~~ 102.17 to resolve a dispute between a
10 pharmacist or practitioner and an employer or insurer over the reasonableness of the
11 amount charged for a prescription drug dispensed under sub. (2) for outpatient use
12 by an injured employee who claims benefits under this chapter.

13 **SECTION 136.** 102.425 (4m) (b) of the statutes is amended to read:

14 102.425 (4m) (b) An employer or insurer that disputes the reasonableness of
15 the amount charged for a prescription drug dispensed under sub. (2) for outpatient
16 use by an injured employee or the department ~~or division~~ under sub. (4) (b) or s.
17 102.16 (1m) (c) or 102.18 (1) (bg) 3. shall provide, within 30 days after receiving a
18 completed bill for the prescription drug, reasonable written notice to the pharmacist
19 or practitioner that the charge is being disputed. After receiving reasonable written
20 notice under this paragraph or under sub. (4) (b) or s. 102.16 (1m) (c) or 102.18 (1)
21 (bg) 3. that a prescription drug charge is being disputed, a pharmacist or practitioner
22 may not collect the disputed charge from, or bring an action for collection of the
23 disputed charge against, the employee who received the prescription drug.

24 **SECTION 137.** 102.43 (5) (b) of the statutes is amended to read:

SENATE BILL 673

1 102.43 (5) (b) Except as provided in s. 102.61 (1g), temporary disability shall
2 also include such period as the employee may be receiving instruction under s. 102.61
3 (1) or (1m). Temporary disability on account of receiving instruction under s. 102.61
4 (1) or (1m), and not otherwise resulting from the injury, shall not be in excess of 80
5 weeks. That 80-week limitation does not apply to temporary disability benefits
6 under this section, the cost of tuition, fees, books, travel, or maintenance under s.
7 102.61 (1), or the cost of private rehabilitation counseling or rehabilitative training
8 under s. 102.61 (1m) if the department ~~or the division~~ determines that additional
9 training is warranted. The necessity for additional training as authorized by the
10 department ~~or the division~~ for any employee shall be subject to periodic review and
11 reevaluation.

12 **SECTION 138.** 102.44 (2) of the statutes is amended to read:

13 102.44 (2) In case of permanent total disability, aggregate indemnity shall be
14 weekly indemnity for the period that the employee may live. Total impairment for
15 industrial use of both eyes, the loss of both arms at or near the shoulder, the loss of
16 both legs at or near the hip, or the loss of one arm at the shoulder and one leg at the
17 hip constitutes permanent total disability. This enumeration is not exclusive, but in
18 other cases the ~~division~~ department shall find the facts.

19 **SECTION 139.** 102.44 (6) (b) of the statutes is amended to read:

20 102.44 (6) (b) If during the period set forth in s. 102.17 (4) the employment
21 relationship is terminated by the employer at the time of the injury or by the
22 employee because his or her physical or mental limitations prevent his or her
23 continuing in such employment, or if during that period a wage loss of 15 percent or
24 more occurs, the ~~division~~ department may reopen any award and make a
25 redetermination taking into account loss of earning capacity.

SENATE BILL 673

1 **SECTION 140.** 102.44 (7) of the statutes is created to read:

2 102.44 (7) In the case of an employee whose injury is a mental injury that is
3 compensable under s. 102.17 (9), the period of disability may not exceed 32 weeks
4 after the injury is first reported.

5 **SECTION 141.** 102.475 (6) of the statutes is amended to read:

6 102.475 (6) **PROOF.** In administering this section the department ~~or the division~~
7 may require reasonable proof of birth, marriage, domestic partnership under ch. 770,
8 relationship, or dependency.

9 **SECTION 142.** 102.48 (1) of the statutes is amended to read:

10 102.48 (1) An unestranged surviving parent or parents to whose support the
11 deceased has contributed less than \$500 in the 52 weeks next preceding the injury
12 causing death shall receive a death benefit of \$6,500. If the parents are not living
13 together, the department ~~or the division~~ shall divide this sum in such proportion as
14 the department ~~or division~~ considers to be just, considering their ages and other facts
15 bearing on dependency.

16 **SECTION 143.** 102.48 (2) of the statutes is amended to read:

17 102.48 (2) In all other cases the death benefit shall be such sum as the
18 department ~~or the division~~ determines to represent fairly and justly the aid to
19 support which the dependent might reasonably have anticipated from the deceased
20 employee but for the injury. To establish anticipation of support and dependency, it
21 shall not be essential that the deceased employee made any contribution to support.
22 The aggregate benefits in that case shall not exceed twice the average annual
23 earnings of the deceased or 4 times the contributions of the deceased to the support
24 of his or her dependents during the year immediately preceding the deceased
25 employee's death, whichever amount is the greater. In no event shall the aggregate

SENATE BILL 673

1 benefits in that case exceed the amount that would accrue to a person who is solely
2 and wholly dependent. When there is more than one partial dependent the weekly
3 benefit shall be apportioned according to their relative dependency. The term
4 “support” as used in ss. 102.42 to 102.63 shall include contributions to the capital
5 fund of the dependents for their necessary comfort.

6 **SECTION 144.** 102.48 (3) of the statutes is amended to read:

7 102.48 (3) Except as otherwise provided, a death benefit, other than burial
8 expenses, shall be paid in weekly installments corresponding in amount to
9 two-thirds of the weekly earnings of the employee, until otherwise ordered by the
10 department ~~or the division~~.

11 **SECTION 145.** 102.49 (3) of the statutes is amended to read:

12 102.49 (3) If the employee leaves a spouse or domestic partner under ch. 770
13 wholly dependent and also a child by a former marriage, domestic partnership under
14 ch. 770, or adoption, likewise wholly dependent, aggregate benefits shall be the same
15 in amount as if the child were the child of the surviving spouse or partner, and the
16 entire benefit shall be apportioned to the dependents in the amounts that the
17 department ~~or the division~~ determines to be just, considering the ages of the
18 dependents and other factors bearing on dependency. The benefit awarded to the
19 surviving spouse or partner shall not exceed 4 times the average annual earnings of
20 the deceased employee.

21 **SECTION 146.** 102.49 (5) (b) of the statutes is amended to read:

22 102.49 (5) (b) In addition to the payment required under par. (a), in each case
23 of injury resulting in death leaving no person dependent for support, the employer
24 or insurer shall, except as provided in s. 102.58 (2), pay into the state treasury the
25 amount of the death benefit otherwise payable, minus any payment made under s.

SENATE BILL 673

1 102.48 (1),. The payment under this paragraph shall, except as provided in par. (cm),
2 be made in 5 equal annual installments, with the first installment due as of the date
3 of death.

4 **SECTION 147.** 102.49 (5) (c) of the statutes is amended to read:

5 102.49 (5) (c) In addition to the payment required under par. (a), in each case
6 of injury resulting in death, leaving one or more persons partially dependent for
7 support, the employer or insurer shall, except as provided in s. 102.58 (2), pay into
8 the state treasury an amount which, when added to the sums paid or to be paid on
9 account of partial dependency and under s. 102.48 (1), shall equal the death benefit
10 payable to a person wholly dependent.

11 **SECTION 148.** 102.49 (5) (cm) of the statutes is created to read:

12 102.49 (5) (cm) The employer or insurer may make advance payments of
13 amounts owed under par. (b) or (c), up to and including a lump sum payment of the
14 entire amount owed. If an employer or insurer makes an advance payment, the
15 department shall give the employer or the insurer an interest credit against its
16 liability for payments made in excess of that required under par. (b) or (c). The credit
17 shall be computed at 5 percent.

18 **SECTION 149.** 102.49 (5) (e) of the statutes is amended to read:

19 102.49 (5) (e) The adjustments in liability provided in ss. 102.57, 102.58 (1),
20 and 102.60 do not apply to payments made under this section.

21 **SECTION 150.** 102.49 (6) of the statutes is amended to read:

22 102.49 (6) The department ~~or the division~~ may award the additional benefits
23 payable under this section to the surviving parent of the child, to the child's guardian,
24 or to such other person, bank, or trust company for the child's use as may be found
25 best calculated to conserve the interests of the child. If the child dies while benefits

SENATE BILL 673

1 are still payable, there shall be paid the reasonable expense for burial, not exceeding
2 \$1,500.

3 **SECTION 151.** 102.51 (3) of the statutes is amended to read:

4 102.51 (3) DIVISION AMONG DEPENDENTS. If there is more than one person wholly
5 or partially dependent on a deceased employee, the death benefit shall be divided
6 between those dependents in such proportion as the department ~~or the division~~
7 determines to be just, considering their ages and other facts bearing on their
8 dependency.

9 **SECTION 152.** 102.51 (4) of the statutes is amended to read:

10 102.51 (4) DEPENDENCY AS OF THE DATE OF DEATH. Questions as to who is a
11 dependent and the extent of his or her dependency shall be determined as of the date
12 of the death of the employee, and the dependent's right to any death benefit becomes
13 fixed at that time, regardless of any subsequent change in conditions. The death
14 benefit shall be directly recoverable by and payable to the dependents entitled to the
15 death benefit or their legal guardians or trustees. In case of the death of a dependent
16 whose right to a death benefit has become fixed, so much of the benefit as is unpaid
17 is payable to the dependent's personal representatives in gross, unless the
18 department ~~or the division~~ determines that the unpaid benefit shall be reassigned
19 under sub. (6) and paid to any other dependent who is physically or mentally
20 incapacitated or a minor. For purposes of this subsection, a child of the employee who
21 is born after the death of the employee is considered to be a dependent as of the date
22 of death.

23 **SECTION 153.** 102.51 (6) of the statutes is amended to read:

24 102.51 (6) DIVISION AMONG DEPENDENTS. Benefits accruing to a minor dependent
25 child may be awarded to either parent in the discretion of the department ~~or the~~

SENATE BILL 673

1 ~~division~~. Notwithstanding sub. (1), the department ~~or the division~~ may reassign the
2 death benefit as between a surviving spouse or a domestic partner under ch. 770 and
3 any children specified in sub. (1) and s. 102.49 in accordance with their respective
4 needs for the death benefit.

5 **SECTION 154.** 102.55 (3) of the statutes is amended to read:

6 102.55 (3) For all other injuries to the members of the body or its faculties that
7 are specified in the schedule under s. 102.52 resulting in permanent disability,
8 though the member is not actually severed or the faculty is not totally lost,
9 compensation shall bear such relation to the compensation named in the schedule
10 as the disability bears to the disability named in the schedule. Indemnity in those
11 cases shall be determined by allowing weekly indemnity during the healing period
12 resulting from the injury and the percentage of permanent disability resulting after
13 the healing period as found by the department ~~or the division~~.

14 **SECTION 155.** 102.555 (12) (a) of the statutes is amended to read:

15 102.555 (12) (a) An employer, or the department, ~~or the division~~ is not liable
16 for the expense of any examination or test for hearing loss, any evaluation of such
17 an exam or test, any medical treatment for improving or restoring hearing, or any
18 hearing aid to relieve the effect of hearing loss unless it is determined that
19 compensation for occupational deafness is payable under sub. (3), (4), or (11).

20 **SECTION 156.** 102.56 (1) of the statutes is amended to read:

21 102.56 (1) Subject to sub. (2), if an employee is so permanently disfigured as
22 to occasion potential wage loss due to the disfigurement, the department ~~or the~~
23 ~~division~~ may allow such sum as the department ~~or the division~~ considers just as
24 compensation for the disfigurement, not exceeding the employee's average annual
25 earnings. In determining the potential for wage loss due to the disfigurement and

SENATE BILL 673

1 the sum awarded, the department ~~or the division~~ shall take into account the age,
2 education, training, and previous experience and earnings of the employee, the
3 employee's present occupation and earnings, and likelihood of future suitable
4 occupational change. Consideration for disfigurement allowance is confined to those
5 areas of the body that are exposed in the normal course of employment. The
6 department ~~or the division~~ shall also take into account the appearance of the
7 disfigurement, its location, and the likelihood of its exposure in occupations for which
8 the employee is suited.

9 **SECTION 157.** 102.56 (2) of the statutes is amended to read:

10 102.56 (2) If an employee who claims compensation under sub. (1) returns to
11 work for the employer who employed the employee at the time of the injury, or is
12 offered employment with that employer, at the same or a higher wage, the
13 department ~~or the division~~ may not allow that compensation unless the employee
14 suffers an actual wage loss due to the disfigurement.

15 **SECTION 158.** 102.565 (1) of the statutes is amended to read:

16 102.565 (1) When, as a result of exposure in the course of employment over a
17 period of time to toxic or hazardous substances or conditions, an employee
18 performing work that is subject to this chapter develops any clinically observable
19 abnormality or condition that, on competent medical opinion, predisposes or renders
20 the employee in any manner differentially susceptible to disability to such an extent
21 that it is inadvisable for the employee to continue employment involving that
22 exposure, is discharged from or ceases to continue the employment, and suffers wage
23 loss by reason of that discharge from, or cessation of, employment, the department
24 ~~or the division~~ may allow such sum as the department ~~or the division~~ considers just
25 as compensation for that wage loss, not exceeding \$13,000. If a nondisabling

SENATE BILL 673

1 condition may also be caused by toxic or hazardous exposure not related to
2 employment and if the employee has a history of that exposure, compensation as
3 provided under this section or any other remedy for loss of earning capacity shall not
4 be allowed. If the employee is discharged from employment prior to a finding by the
5 department ~~or the division~~ that it is inadvisable for the employee to continue in that
6 employment and if it is reasonably probable that continued exposure would result
7 in disability, the liability of the employer who discharges the employee is primary,
8 and the liability of the employer's insurer is secondary, under the same procedure
9 and to the same effect as provided by s. 102.62.

10 **SECTION 159.** 102.565 (2) of the statutes is amended to read:

11 102.565 (2) Upon application of any employer or employee, the department ~~or~~
12 ~~the division~~ may direct any employee of the employer or an employee who, in the
13 course of his or her employment, has been exposed to toxic or hazardous substances
14 or conditions to submit to examination by one or more physicians appointed by the
15 department ~~or the division~~ to determine whether the employee has developed any
16 abnormality or condition under sub. (1), and the degree of that abnormality or
17 condition. The cost of the medical examination shall be borne by the person making
18 application. The physician conducting the examination shall submit the results of
19 the examination to the department ~~or the division~~, which shall submit copies of the
20 reports to the employer and employee, who shall have an opportunity to rebut the
21 reports if a request to submit a rebuttal is made to the department ~~or the division~~
22 within 10 days after the department ~~or the division~~ mails the report to the parties.
23 The department ~~or the division~~ shall make its findings as to whether it is inadvisable
24 for the employee to continue in his or her employment.

25 **SECTION 160.** 102.565 (3) of the statutes is amended to read:

SENATE BILL 673

1 102.565 (3) If, after direction by the commission, ~~or~~ any member of the
2 commission, the department, ~~the division~~, or an examiner, an employee refuses to
3 submit to an examination or in any way obstructs the examination, the employee's
4 right to compensation under this section shall be barred.

5 **SECTION 161.** 102.58 of the statutes is renumbered 102.58 (1) and amended to
6 read:

7 102.58 (1) If injury is caused by the failure of the employee to use safety devices
8 that are provided in accordance with any statute, rule, or order of the department
9 of safety and professional services and that are adequately maintained, and the use
10 of which is reasonably enforced by the employer, or if injury results from the
11 employee's failure to obey any reasonable rule adopted and reasonably enforced by
12 the employer for the safety of the employee and of which the employee has notice, the
13 compensation and death benefit provided in this chapter shall be reduced by 15
14 percent, but the total reduction may not exceed \$15,000.

15 **(2)** If an employee violates the employer's policy concerning employee drug or
16 alcohol use and is injured, and if that violation is causal to the employee's injury, no
17 compensation or death benefits shall be payable to the injured employee or a
18 dependent of the injured employee and no payment under s. 102.49 (5) (b) or (c) shall
19 be payable. Nothing in this ~~section~~ subsection shall reduce or eliminate an
20 employer's liability for incidental compensation under s. 102.42 (1) to (8) or drug
21 treatment under s. 102.425.

22 **SECTION 162.** 102.61 (1g) (c) of the statutes is amended to read:

23 102.61 (1g) (c) On receiving notice that he or she is eligible to receive vocational
24 rehabilitation services under 29 USC 701 to 797a, an employee shall provide the
25 employer with a written report from a physician, chiropractor, psychologist, or

SENATE BILL 673

1 podiatrist stating the employee's permanent work restrictions. Within 60 days after
2 receiving that report, the employer shall provide to the employee in writing an offer
3 of suitable employment, a statement that the employer has no suitable employment
4 for the employee, or a report from a physician, chiropractor, psychologist, or
5 podiatrist showing that the permanent work restrictions provided by the employee's
6 practitioner are in dispute and documentation showing that the difference in work
7 restrictions would materially affect either the employer's ability to provide suitable
8 employment or a vocational rehabilitation counselor's ability to recommend a
9 rehabilitative training program. If the employer and employee cannot resolve the
10 dispute within 30 days after the employee receives the employer's report and
11 documentation, the employer or employee may request a hearing before the ~~division~~
12 department to determine the employee's work restrictions. Within 30 days after the
13 ~~division~~ department determines the employee's work restrictions, the employer shall
14 provide to the employee in writing an offer of suitable employment or a statement
15 that the employer has no suitable employment for the employee.

16 **SECTION 163.** 102.61 (1m) (c) of the statutes is amended to read:

17 102.61 **(1m)** (c) The employer or insurance carrier shall pay the reasonable cost
18 of any services provided for an employee by a private rehabilitation counselor under
19 par. (a) and, subject to the conditions and limitations specified in sub. (1r) (a) to (c)
20 and by rule, if the private rehabilitation counselor determines that rehabilitative
21 training is necessary, the reasonable cost of the rehabilitative training program
22 recommended by that counselor, including the cost of tuition, fees, books,
23 maintenance, and travel at the same rate as is provided for state officers and
24 employees under s. 20.916 (8). Notwithstanding that the department ~~or the division~~
25 may authorize under s. 102.43 (5) (b) a rehabilitative training program that lasts

SENATE BILL 673

1 longer than 80 weeks, a rehabilitative training program that lasts 80 weeks or less
2 is presumed to be reasonable.

3 **SECTION 164.** 102.61 (2) of the statutes is amended to read:

4 102.61 (2) The ~~division~~ department, the commission, and the courts shall
5 determine the rights and liabilities of the parties under this section in like manner
6 and with like effect as the ~~division~~ department, the commission, and the courts
7 determine other issues under this chapter. A determination under this subsection
8 may include a determination based on the evidence regarding the cost or scope of the
9 services provided by a private rehabilitation counselor under sub. (1m) (a) or the cost
10 or reasonableness of a rehabilitative training program developed under sub. (1m) (a).

11 **SECTION 165.** 102.62 of the statutes is amended to read:

12 **102.62 Primary and secondary liability; unchangeable.** In case of
13 liability under s. 102.57 or 102.60, the liability of the employer shall be primary and
14 the liability of the insurance carrier shall be secondary. If proceedings are had before
15 the ~~division~~ department for the recovery of that liability, the ~~division~~ department
16 shall set forth in its award the amount and order of liability as provided in this
17 section. Execution shall not be issued against the insurance carrier to satisfy any
18 judgment covering that liability until execution has first been issued against the
19 employer and has been returned unsatisfied as to any part of that liability. Any
20 provision in any insurance policy undertaking to guarantee primary liability or to
21 avoid secondary liability for a liability under s. 102.57 or 102.60 is void. If the
22 employer has been adjudged bankrupt or has made an assignment for the benefit of
23 creditors, if the employer, other than an individual, has gone out of business or has
24 been dissolved, or if the employer is a corporation and its charter has been forfeited
25 or revoked, the insurer shall be liable for the payment of that liability without

SENATE BILL 673

1 judgment or execution against the employer, but without altering the primary
2 liability of the employer.

3 **SECTION 166.** 102.64 (1) of the statutes is amended to read:

4 102.64 (1) Upon request of the department of administration, a representative
5 of the department of justice shall represent the state in cases involving payment into
6 or out of the state treasury under s. 20.865 (1) (fm), (kr), or (ur) or 102.29. The
7 department of justice, after giving notice to the department of administration, may
8 compromise the amount of those payments but such compromises shall be subject to
9 review by the department ~~or the division~~. If the spouse or domestic partner under
10 ch. 770 of the deceased employee compromises his or her claim for a primary death
11 benefit, the claim of the children of the employee under s. 102.49 shall be
12 compromised on the same proportional basis, subject to approval by the department
13 ~~or the division~~. If the persons entitled to compensation on the basis of total
14 dependency under s. 102.51 (1) compromise their claim, payments under s. 102.49
15 (5) (a) shall be compromised on the same proportional basis.

16 **SECTION 167.** 102.64 (2) of the statutes is amended to read:

17 102.64 (2) Upon request of the department of administration, the attorney
18 general shall appear on behalf of the state in proceedings upon claims for
19 compensation against the state. Except as provided in s. 102.65 (3), the department
20 of justice shall represent the interests of the state in proceedings under s. 102.44 (1),
21 102.49, 102.59, 102.60, or 102.66. The department of justice may compromise claims
22 in those proceedings, but the compromises are subject to review by the department
23 ~~or the division~~. Costs incurred by the department of justice in prosecuting or
24 defending any claim for payment into or out of the work injury supplemental benefit
25 fund under s. 102.65, including expert witness and witness fees but not including

SENATE BILL 673

1 attorney fees or attorney travel expenses for services performed under this
2 subsection, shall be paid from the work injury supplemental benefit fund.

3 **SECTION 168.** 102.65 (3) of the statutes is amended to read:

4 102.65 (3) The department of workforce development may retain the
5 department of administration to process, investigate, and pay claims under ss.
6 102.44 (1), 102.49, 102.59, and 102.66. If retained by the department of workforce
7 development, the department of administration may compromise a claim processed
8 by that department, but a compromise made by that department is subject to review
9 by the department of workforce development ~~or the division~~. The department of
10 workforce development shall pay for the services retained under this subsection from
11 the appropriation account under s. 20.445 (1) (t).

12 **SECTION 169.** 102.66 (1) of the statutes is amended to read:

13 102.66 (1) Subject to any certificate filed under s. 102.65 (4), if there is an
14 otherwise meritorious claim for occupational disease, or for a traumatic injury
15 described in s. 102.17 (4) in which the date of injury or death or last payment of
16 compensation, other than for treatment or burial expenses, is before April 1, 2006,
17 and if the claim is barred solely by the statute of limitations under s. 102.17 (4), the
18 department ~~or the division~~ may, in lieu of worker's compensation benefits, direct
19 payment from the work injury supplemental benefit fund under s. 102.65 of such
20 compensation and such medical expenses as would otherwise be due, based on the
21 date of injury, to or on behalf of the injured employee. The benefits shall be
22 supplemental, to the extent of compensation liability, to any disability or medical
23 benefits payable from any group insurance policy whose premium is paid in whole
24 or in part by any employer, or under any federal insurance or benefit program

1 providing disability or medical benefits. Death benefits payable under any such
2 group policy do not limit the benefits payable under this section.

3 **SECTION 170.** 102.75 (1) of the statutes is amended to read:

4 102.75 (1) The department shall assess upon and collect from each licensed
5 worker's compensation insurance carrier and from each employer exempted under
6 s. 102.28 (2) (b) or (bm) from the duty to carry insurance under s. 102.28 (2) (a) the
7 proportion of total costs and expenses incurred by the council on worker's
8 compensation for travel and research and by the department, ~~the division,~~ and the
9 commission in the administration of this chapter for the current fiscal year, plus any
10 deficiencies in collections and anticipated costs from the previous fiscal year, that the
11 total indemnity paid or payable under this chapter by each such carrier and exempt
12 employer in worker's compensation cases initially closed during the preceding
13 calendar year, other than for increased, double, or treble compensation, bore to the
14 total indemnity paid in cases closed the previous calendar year under this chapter
15 by all carriers and exempt employers, other than for increased, double, or treble
16 compensation. The council on worker's compensation, ~~the division,~~ and the
17 commission shall annually certify any costs and expenses for worker's compensation
18 activities to the department at such time as the secretary requires.

19 **SECTION 171.** 102.75 (1m) of the statutes is amended to read:

20 102.75 (1m) The moneys collected under subs. (1) and (1g) and under ss. 102.28
21 (2) and 102.31 (7), together with all accrued interest, shall constitute a separate
22 nonlapsible fund designated as the worker's compensation operations fund. Moneys
23 in the fund may be expended only as provided in ss. 20.427 (1) (ra) and 20.445 (1) (ra),
24 (rb), (rc), and (rp) and may not be used for any other purpose of the state.

25 **SECTION 172.** 102.80 (1) (d) of the statutes is amended to read:

SENATE BILL 673

1 102.80 (1) (d) Amounts collected from employees or dependents of employees
2 under s. 102.81 (4) (b) and (c).

3 **SECTION 173.** 102.81 (4) (b) (intro.) of the statutes is amended to read:

4 102.81 (4) (b) (intro.) If the employee or dependent receives compensation from
5 the employee's employer ~~or a 3rd party liable under s. 102.29~~, pay to the department
6 the lesser of the following:

7 **SECTION 174.** 102.81 (4) (b) 2. of the statutes is amended to read:

8 102.81 (4) (b) 2. The amount after attorney fees and costs that the employee
9 or dependent received from the employer ~~or 3rd party~~.

10 **SECTION 175.** 102.81 (4) (c) of the statutes is created to read:

11 102.81 (4) (c) If the employee or dependent receives compensation from a 3rd
12 party that is liable under s. 102.29, pay to the department the proceeds as specified
13 under s. 102.29 (1) (b).

14 **SECTION 176.** 102.81 (5) of the statutes is amended to read:

15 102.81 (5) The department of justice may bring an action to collect ~~the a~~
16 payment under sub. (4) (b) or (c).

17 **SECTION 177.** 102.82 (1) of the statutes is amended to read:

18 102.82 (1) Except as provided in sub. (2) (ar), an uninsured employer shall
19 reimburse the department for any payment made under s. 102.81 (1) to or on behalf
20 of an employee of the uninsured employer or to an employee's dependents and for any
21 expenses paid by the department in administering the claim of the employee or
22 dependents, less amounts repaid by the employee or dependents under s. 102.81 (4)
23 (b) or (c). The reimbursement owed under this subsection is due within 30 days after
24 the date on which the department notifies the uninsured employer that the

SENATE BILL 673

1 reimbursement is owed. Interest shall accrue on amounts not paid when due at the
2 rate of 1 percent per month.

3 **SECTION 178.** 146.82 (2) (a) 3m. of the statutes is created to read:

4 146.82 (2) (a) 3m. To the extent the records are necessary to process, adjudicate,
5 or review claims under the worker's compensation system or to comply with ch. 102.

6 **SECTION 179.** 227.43 (1) (bm) of the statutes is repealed.

7 **SECTION 180.** 227.43 (2) (am) of the statutes is repealed.

8 **SECTION 181.** 227.43 (3) (bm) of the statutes is repealed.

9 **SECTION 182.** 227.43 (4) (bm) of the statutes is repealed.

10 **SECTION 183. Nonstatutory provisions.**

11 (1) WORKER'S COMPENSATION INSURANCE; RATE APPROVAL; NOTICE. The
12 commissioner of insurance shall submit to the legislative reference bureau for
13 publication in the Wisconsin Administrative Register a notice of the effective date
14 of new rates for worker's compensation insurance first approved by the
15 commissioner after the effective date of this subsection.

16 (2) TRANSFER OF WORKER'S COMPENSATION ADJUDICATORY FUNCTIONS.

17 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
18 liabilities of the division of hearings and appeals in the department of administration
19 that are primarily related to worker's compensation matters, as determined by the
20 secretary of administration, shall become the assets and liabilities of the department
21 of workforce development.

22 (b) *Positions and employees.* On the effective date of this paragraph, all
23 positions and all incumbent employees holding those positions in the division of
24 hearings and appeals in the department of administration performing duties that
25 are primarily related to worker's compensation matters, as determined by the

SENATE BILL 673

1 secretary of administration, are transferred to the department of workforce
2 development.

3 (c) *Employee status.* Employees transferred under par. (b) have all the rights
4 and the same status under ch. 230 in the department of workforce development that
5 they enjoyed in the division of hearings and appeals in the department of
6 administration immediately before the transfer. Notwithstanding s. 230.28 (4), no
7 employee so transferred who has attained permanent status in class is required to
8 serve a probationary period.

9 (d) *Tangible personal property.* On the effective date of this paragraph, all
10 tangible personal property, including records, of the the division of hearings and
11 appeals in the department of administration that is primarily related to worker's
12 compensation matters, as determined by the secretary of administration, is
13 transferred to the department of workforce development.

14 (e) *Pending matters.* Any worker's compensation matter pending with the
15 division of hearings and appeals in the department of administration on the effective
16 date of this paragraph, as determined by the secretary of administration, is
17 transferred to the department of workforce development. All materials submitted
18 to or actions taken by the division of hearings and appeals in the department of
19 administration with respect to the pending matter are considered as having been
20 submitted to or taken by the department of workforce development.

21 (f) *Contracts.* All contracts entered into by the division of hearings and appeals
22 in the department of administration in effect on the effective date of this paragraph
23 that are primarily related to worker's compensation matters, as determined by the
24 secretary of administration, remain in effect and are transferred to the department
25 of workforce development. The department of workforce development shall carry out

SENATE BILL 673

1 any obligations under those contracts unless modified or rescinded by the
2 department of workforce development to the extent allowed under the contract.

3 (g) *Rules and orders.* All rules promulgated by the division of hearings and
4 appeals in the department of administration in effect on the effective date of this
5 paragraph that are primarily related to worker's compensation matters, as
6 determined by the secretary of administration, remain in effect until their specified
7 expiration dates or until amended or repealed by the department of workforce
8 development. All orders issued by the division of hearings and appeals in the
9 department of administration in effect on the effective date of this paragraph that
10 are primarily related to worker's compensation matters, as determined by the
11 secretary of administration, remain in effect until their specified expiration dates or
12 until modified or rescinded by the department of workforce development.

13 (3) POSITION TRANSFER. The authorized FTE positions for the department of
14 workforce development are increased by 35.5 SEG positions to be funded from the
15 appropriation under s. 20.445 (1) (ra), for performing duties related to conducting
16 hearings under ch. 102.

SECTION 184. Fiscal changes.

17
18 (1) On the effective date of this subsection, there is transferred from the
19 appropriation account under s. 20.445 (1) (t) to the appropriation account under s.
20 20.445 (1) (rc) the unencumbered balance of the amount collected under s. 102.75
21 (1g).

22 (2) In the schedule under s. 20.005 (3) for the appropriation to the department
23 of workforce development under s. 20.445 (1) (ra), the dollar amount for fiscal year
24 2020-21 is increased by \$275,000 to provide funding for previously authorized
25 positions providing services for the worker's compensation division.

SENATE BILL 673

1 (3) In the schedule under s. 20.005 (3) for the appropriation to the division of
2 hearings and appeals in the department of administration under s. 20.505 (4) (kp),
3 the dollar amount for fiscal year 2020-21 is decreased by \$4,800,000 to decrease the
4 authorized positions for the division by 35.5 PR positions performing duties related
5 to conducting hearings under ch. 102.

6 (4) In the schedule under s. 20.005 (3) for the appropriation to the department
7 of workforce development under s. 20.445 (1) (ra), the dollar amount for fiscal year
8 2020-21 is increased by \$9,000 to increase the authorized FTE positions for the
9 department by 0.2 SEG position for the performance of services for the worker's
10 compensation division.

SECTION 185. Initial applicability.

11 (1) The treatment of ss. 102.80 (1) (d), 102.81 (4) (b) (intro.) and 2. and (c) and
12 (5), and 102.82 (1) first applies to actions filed under s. 102.29 on the effective date
13 of this subsection.
14

15 (2) The treatment of ss. 102.17 (9), 102.42 (1) and (1p), and 102.44 (7) first
16 applies to injuries reported on the effective date of rate changes for worker's
17 compensation insurance approved by the commissioner of insurance under s. 626.13
18 after the effective date of this subsection.

19 **SECTION 186. Effective dates.** This act takes effect on the day after
20 publication, except as follows:

21 (1) The treatment of ss. 40.65 (2) (a) and (b) 3. and 4., 102.01 (2) (ad), (ar), and
22 (dm), 102.04 (2r) (b), 102.07 (8) (c), 102.11 (1) (am) 1., 102.12, 102.13 (1) (c), (d) 2., and
23 3., and (f), (2) (a), (3), (4), and (5), 102.14 (title), (1), and (2), 102.15 (1) and (2), 102.16
24 (1), (1m) (a), (b), and (c), (2) (a) and (b), (2m) (a) and (b), and (4), 102.17 (1) (a) 1., 2.,
25 3., and 4., (b), (c) 1., (d) 1., 2., 3., and 4., (e), (f) 1., (g), and (h), (2), (2m), (2s), (7) (b)

SENATE BILL 673

1 and (c), and (8), 102.175 (2) and (3) (c), 102.18 (1) (b) 1., 2., and 3., (bg) 1., 2., and 3.,
2 (bp), (bw), (c), and (e), (2), (3), (4) (c) 3. and (d), (5), and (6), 102.195, 102.22 (1) and
3 (2), 102.23 (2), (3), and (5), 102.24 (2), 102.25 (1), 102.26 (2), (3) (b) 1. and 3., and (4),
4 102.27 (2) (b), 102.28 (3) (c) and (4) (c), 102.29 (1) (b) (intro.), (c), and (d), 102.30 (7)
5 (a), 102.32 (1m) (intro.), (a), and (c), and (d), (5), (6m), and (7), 102.33 (1) and (2) (a),
6 (b) (intro.), 1., 2., and 4., (c), and (d) 2., 102.35 (3), 102.42 (1m), (6), and (8), 102.425
7 (4m) (a) and (b), 102.43 (5) (b), 102.44 (2) and (6) (b), 102.475 (6), 102.48 (1), (2), and
8 (3), 102.49 (3) and (6), 102.51 (3), (4), and (6), 102.55 (3), 102.555 (12) (a), 102.56 (1)
9 and (2), 102.565 (1), (2), and (3), 102.61 (1g) (c), (1m) (c), and (2), 102.62, 102.64 (1)
10 and (2), 102.65 (3), 102.66 (1), 102.75 (1), and 227.43 (1) (bm), (2) (am), (3) (bm), and
11 (4) (bm) and SECTIONS 183 (2) (a), (d), (e), (f), and (g) and 184 (3) take effect on July
12 1, 2020.

13 (2) SECTION 183 (2) (b) and (c) and (3) of this act takes effect on July 5, 2020.

14 (END)