

Fiscal Estimate - 2021 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 21-1158/1	Introduction Number AB-0017
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Description
 various changes to the worker's compensation law

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		
<input type="checkbox"/> Create New Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs	5. Types of Local Government Units Affected	
<input checked="" type="checkbox"/> Indeterminate		
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Counties <input type="checkbox"/> Others
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	20.505(4)(kp), 20.505(2)(ki), 20.505(2)(k)

Agency/Prepared By DOA/ Josh Bachert (608) 261-2292	Authorized Signature Robin Malicki (608) 264-9576	Date 2/9/2021
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Fiscal Estimate Narratives

DOA 2/9/2021

LRB Number	21-1158/1	Introduction Number	AB-0017	Estimate Type	Original
Description various changes to the worker's compensation law					

Assumptions Used in Arriving at Fiscal Estimate

Assembly Bill 17 (AB-17) proposes changes to the worker's compensation law pertaining to claims for worker's compensation benefits for public safety officers with post-traumatic stress disorder (PTSD). This bill provides that, in the case where a public safety employee suffers a mental injury that arises from employment and results in a diagnosis of PTSD, the individual 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, such as a disciplinary action, work evaluation, or transfer. The bill would also limit liability for treatment for an individual's mental injury to no more than 32 weeks after the injury is first reported and limit compensation to no greater than three times in their lifetime for this diagnosis.

The Department of Administration's, or Department's, Bureau of Risk Management (Risk) administers worker's compensation for state employees as a self-funded insurance program. Risk processes claims, directly pays claims costs, and assesses premiums to state agencies to provide for claims and administrative costs.

The Department anticipates that AB-17 would result in an ongoing increase to the number of worker's compensation claims. The state currently employs approximately 982 individuals who would fall under the bill's definition of a public safety officer, and to whom the bill's provisions would apply. In FY2020, the state received 2,435 worker's compensation claims, none of which were for PTSD resulting from a mental injury. Over the preceding five-year period (FY2016 through FY2020), there were a total of 20 claims (an average of four claims per year) filed by state public safety employees which were denied coverage based on the current law limitation of compensation to physical injury resulting in a diagnosis of PTSD.

The Department anticipates a resulting increase in claims and claims administration costs. The increased costs would be paid by the Department under s. 20.505 (2) (k), Wis. Stats., risk management costs. This appropriation is funded by risk premium assessments to state agencies and uses historical paid loss experience to determine each agency's allocation of the total amount to be recovered annually.

Due to the inability to determine the number of new cases the Department would receive based upon the change in compensation eligibility criteria, the resulting increase to the Department and state agencies is indeterminate at this time. The Department's claims appropriation is a continuing appropriation. Therefore, the Department anticipates that the increase can initially be absorbed by the Department. The increases to state agencies are paid from a variety of appropriations, including within the Department for its proportionate share. The ability for agencies, including the Department, and the appropriations they utilize to absorb the anticipated claim increases, is indeterminate at this time.

The Department also anticipates a potential increase to the number of worker's compensation hearings to resolve disputed claims pertaining to AB-17, for which the Department's Division of Hearings and Appeals (DHA) is responsible.

Each DHA case received that advances to an appeal requires approximately 80 hours of Administrative Law Judge time to process, not inclusive of additional time required by support staff. In FY2019, DHA received 4,042 worker's compensation cases, and of those it is estimated that an approximate 40 hearings involved a public safety officer. However, as the Department does not currently hear cases resulting from the pertaining PTSD cases, the Department is not able to anticipate the number of potential additional cases that may be received as a result of AB-17. Therefore, the resulting increase in workload for DHA staff is indeterminate.

DHA worker's compensation hearings services are authorized under s. 20.505(4)(kp), Wis. Stats., hearings and appeals fees, which is funded by billings to the Department of Workforce Development, as authorized under s. 227.43, Wis. Stats. The Department anticipates it has the ability to absorb the indeterminate additional personnel time required within currently existing position and expenditure authority under s. 20.505 (4) (kp), Wis. Stats.

The Department also estimates an increase in worker's compensation claims costs for local units of government who employ public safety staff, which can be a significant portion of a local unit of government's operations. However, since the anticipated resulting increase in the number of claims for the local units of government is inestimable at this time, the local fiscal impact of this provision is indeterminate.

AB-17 provides that a client of an employee leasing company may elect to assume the liability of leased employees under an employee leasing agreement. Also, if a client that elected to provide workers compensation insurance terminates its agreement and coverage, the employee leasing company is then responsible.

Since the provision is non-compulsory, the Department (client) does not anticipate that it would elect to provide worker's compensation insurance to any of the State's leased employees. As currently required under Chapter 102, Wis. Stats., and as anticipated to be maintained under AB-17, contractors employed by state agencies are responsible for maintaining worker's compensation insurance coverage, for all contractor's employees and contracted personnel engaged in the work performed. As such, the Department does not anticipate an increase to worker's compensation coverage or resulting increase in claims and claims administration costs.

The Department is not able to anticipate the use of leased employees hired by local units of government, and those which are clients that would elect to enter into leasing agreements and provide worker's compensation coverage. Therefore, the local fiscal impact of this provision is indeterminate.

Long-Range Fiscal Implications