

Fiscal Estimate - 2023 Session

Original Updated Corrected Supplemental

LRB Number **23-5556/1** **Introduction Number** **SB-0991**

Description
various changes to the worker's compensation law

Fiscal Effect

State:

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

Local:

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

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

Agency/Prepared By	Authorized Signature	Date
DOA/ Kuang Xin (608) 266-5329	Robin Malicki (608) 264-9576	2/21/2024

Fiscal Estimate Narratives

DOA 2/21/2024

LRB Number	23-5556/1	Introduction Number	SB-0991	Estimate Type	Original
Description various changes to the worker's compensation law					

Assumptions Used in Arriving at Fiscal Estimate

Senate Bill 991 (SB 991) introduces various worker's compensation law provisions. The proposed bill would: increase the maximum weekly compensation for permanent partial disability; increase the claim amount for which the Uninsured Employers Fund (UEF) is used to pay; advance payment for permanent partial disability; clarify duties on case closing for claims of compensation; change references to "advanced practice registered nurses" related to medication prescription rights; make references to spouses under the worker's compensation law gender-neutral; and update references to the federal Rehabilitation Act of 1973 to account for subsequent amendments to the federal act.

The provisions under the proposed bill that would impact the Department of Administration (Department) pertain to the closure of cases for claims of compensation. The Department's Division of Hearings and Appeals (DHA) is responsible for holding administrative hearings across a wide array of subject matters, including worker's compensation, corrections, and general government appeals. DHA's hearings services are authorized under s. 20.505 (4) (kp), Wis. Stats., hearings and appeals fees, appropriation numeric 43500.

DHA currently contains 37.45 PR-S FTE positions/partial positions (21.35 Attorneys/Supervisors and 16.1 support staff) with activities associated with worker's compensation. Each case received that advances to an appeal requires approximately 80 hours of Administrative Law Judge (ALJ) time to process.

Under the proposed bill, significant changes would be made to the management of worker's compensation cases and to the application of the statute of limitations. The proposed bill would terminate the practice of pausing the statute of limitations on unresolved issues when DHA approves a limited compromise agreement.

In 2023, DHA issued 3,556 orders, of which 2,706 were compromise orders. Compromise orders are where an agreement is reached to seek an ALJ's approval. Approximately 1,200 of the 2,706 compromise agreements were limited compromise agreements, where some issues were settled and closed while others were left open pending resolution. Limited compromise agreements oftentimes keep future medical expenses open given the potential need for future treatment and they preserve the injured worker's claim against his employer and its worker's compensation carrier, should future treatment be warranted.

Using limited compromise agreements, the injured worker is allowed to receive a partial award for the portion that is agreed to. All claims and issues closed by the limited compromise agreement cannot be re-litigated, and, in accordance with case law, the statute of limitations on the remaining unsettled claims/issues is tolled. By tolling, the injured worker is not under a time limit constraint to bring any future claims, should the need arise, that were not closed by the limited compromise agreement.

Under the proposed bill, the statute of limitations would commence on the date DHA approves a compromise agreement, imposing a time limit on injured workers to bring any additional claims, including those for future medical care related to their work injury.

DHA would be part of a two-tiered system where the statute of limitations begins immediately following a compromise order approved by DHA, but not on those approved by the Department of Workforce Development (DWD). This may result in injured workers whose compromise agreements are approved by DHA facing a stricter statute of limitations compared to those whose compromise agreements are approved by DWD. Because the statute of limitations would begin immediately after DHA approves a compromise agreement, those injured workers would have less time to bring future claims than those who have their compromise agreements approved by DWD.

Claims with a date of injury that post-date the effective date of the new law would be subject to one statute of limitations, while the approximately 4,700 current cases would be subject to a different procedure and statute of limitations.

Under the proposed bill, DHA would initiate the statute of limitations on the date an order (either limited or final) is issued. If there are unresolved issues following DHA's issuance of an order, the injured worker would be required to file a new Application for Hearing and DWD would return the file to DHA only when a hearing is required.

DHA anticipates a reduction in the workload performed by its ALJs from the proposed processing changes for limited compromise agreement cases and the removal of cases. Specifically, DHA anticipates that these changes would result in a reduction of approximately 600 cases annually which are currently handled by DHA ALJs.

The proposed bill could potentially result in a reduction of (2.0) FTE PR-S in permanent positions (Attorney classification) and commensurate expenditure authority under appropriation numeric 43500. The earliest position authority could be deleted is Fiscal Year (FY) 2025-26, as DHA would require sufficient time to resolve its current active cases.

The Department estimates this would result in an ongoing reduction to expenditures of (\$229,200), including salary (\$149,800), fringe (\$58,600), and personnel-variable supplies and services (\$20,800), based on the current minimum hourly rate of the attorney classification in the Department of \$36/hr.

DHA recovers for its services under numeric 43500 based upon fees calculated from actual expenditures for providing administrative hearing services. DWD would no longer be charged for DHA's recovery of the expenditures associated with the 2.00 FTE ALJs, and, independent of any other additional personnel changes under both agencies, DWD would realize an ongoing cost savings equal to the amount estimated for these personnel costs.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2023 Session

Detailed Estimate of Annual Fiscal Effect

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 Updated
 Corrected
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Description various changes to the worker's compensation law		
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):		
II. Annualized Costs:		
	Annualized Fiscal Impact on funds from:	
	Increased Costs Decreased Costs	
A. State Costs by Category		
State Operations - Salaries and Fringes	\$ -208,400	
(FTE Position Changes)	(-2.0 FTE)	
State Operations - Other Costs	-20,800	
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$ -229,200	
B. State Costs by Source of Funds		
GPR		
FED		
PRO/PRS (PRS)	-229,200	
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT		
	<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS	\$-229,200	\$
NET CHANGE IN REVENUE	\$	\$
Agency/Prepared By		
Authorized Signature		Date
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