
Assembly Committee on State Affairs and Government Operations

Testimony on Assembly Bill 724

BJ Dernbach, Division Administrator, Worker's Compensation

Chairperson Swearingen and members of the Assembly Committee:

I am BJ Dernbach, the Division Administrator for Worker's Compensation (Division) and I also serve at the Chair of the Worker's Compensation Advisory Council (Council). On behalf of the council I would like to thank you for hearing the councils agreed upon bill.

The Wisconsin Worker's Compensation Advisory Council was created by the legislature to advise the Department and Legislature on policy matters concerning the development and administration of the worker's compensation law. This process has acted as a vehicle for labor and management representatives to work together on ensuring stability in the system while also recommending changes to ensure the positive health of the system. This includes the protection of the grand bargain where employers receive protection from work place injury tort in exchange for providing health and fixed indemnity benefits for injured workers.

The legislation before you today is the result of the councils work over the last year and a half. The language in Assembly Bill 724 was developed by the Council based on input and recommendations from numerous sources including employer representatives, labor representatives, medical providers, insurance carriers, the Legislature, and the Department of Workforce Development. The council also received input from the public during their statewide public hearing earlier in the year.

Following their public hearing, the council met regularly with staff support from the Division and unanimously approved the proposed changes at their December 22nd meeting.

I will defer talking about the specifics of the bill to the two representatives from Management and Labor, but I would be happy to answer any technical questions you may have. Thank you again for your time and for the opportunity to testify today.

Stephanie Bloomingdale
Wisconsin State AFL-CIO
In support of AB 724
January 27, 2016

Good morning/afternoon Mr. Chairman and members of the Committee. My name is Stephanie Bloomingdale.

I appear before you today in my capacity as Chairwoman of the Worker's Compensation Advisory Council and in my capacity as the Secretary-Treasurer of the Wisconsin State AFL-CIO to urge support of AB 724, a bill designed to protect injured workers and safeguard Wisconsin's respected Worker's Compensation Act.

I. WISCONSIN'S WORKER'S COMPENSATION SYSTEM

Wisconsin was a pioneer when it came to protecting employees who were injured during the course of their employment. Wisconsin became the first state in the nation to enact a comprehensive worker's compensation law. This law, the Workmen's Compensation Act of 1911, created a system whereby injured workers receive prompt treatment, benefits for lost wages, and an incentive to return to work after they have healed from the effects of their injuries. For over a century, this system has provided employers, insurers and injured employees a stable environment with minimal litigation.

Every citizen can be proud of this State's strong worker's compensation system. It is fair to all affected parties, and is admired throughout the country for its stability and efficiency. Research has proven that:

- Wisconsin's injured workers heal faster; they return to the workforce on average three weeks faster than injured workers in other states.
- Wisconsin's system has lower costs, according to a 16 state study of worker injury claims by the non-partisan Worker's Compensation Research Institute.
- Wisconsin's injured workers are able to navigate the system effectively, resulting in less litigation, which is beneficial for workers and employers alike.
- Wisconsin's worker's compensation premiums are stable and low; they have risen at a pace less than inflation over the past six years.
- Wisconsin's worker's compensation system is completely funded by worker's compensation premiums and does not take in one penny of taxpayer dollars.

II. WISCONSIN'S WORKER'S COMPENSATION ADVISORY COUNCIL

I respectfully submit to you today that the historic stability of Wisconsin's worker's compensation system is the result of the proven process involved in enacting changes to the Worker's Compensation Act. Almost 50 years ago, the Legislature, with the purpose of insulating the worker's compensation system from partisan politics, and to ensure proper representation of all parties affected by the worker's compensation system, created the Worker's Compensation Advisory Council (the "Council"). The composition of the Council fairly represents the interests of all stakeholders in the worker's compensation system. The task of the Council is to advise the Legislature on policy matters concerning the development and administration of Wisconsin's worker's compensation law. Because legislators confidently trust in the Council process, the Legislature has historically accepted the recommendations of the Council.

One of the most important and enduring principles of the Council is maintaining the overall stability of the worker's compensation system without regard to partisan changes in the legislative or executive branches of government. The diversity of perspectives and interests of the participants in the Council process guarantees that every issue relating to continually improving Wisconsin's worker's compensation system is fairly and fully considered. Without the efforts of the Council, Wisconsin's worker's compensation system would be subject to the whim of partisan politics and would "yo-yo" with each election. As the political pendulum swings from one party to the other, instability is introduced into the system. That instability creates uncertainty and risk. That uncertainty and risk drives employer's worker's compensation premiums higher. Those costs are in turn passed on to consumers in the form of higher prices, and impacts job creation and expansion.

The efforts of the Council provide stability for the entire system and a vehicle to make reasoned changes to continually improve our worker's compensation system. The Labor and Management teams work toward the common goal of recommending changes that benefit the entire system: workers, employers and insurers. The Council process involves expert study, balanced discussion, and thoughtfully negotiated changes to the system. The product of the Council's negotiations is then drafted into an Agreed-Upon Bill that is brought to the Legislature.

This legislative session was no different – I can tell you the Council held public hearings around the State in December 2014 and then got to work on studying and vetting proposals in January 2015. We continued to meet and negotiate through the next nine months and arrived at an Agreement in October. The Agreement was quickly sent to the Legislative Reference Bureau for drafting. I would like to thank Chairman Nass and Representative Spiros for taking the lead as author of this Agreed-Upon Bill.

III. AB 724

AB 724 provides long overdue increases to the benefits required to adequately compensate employees who have sustained permanent injuries during the course of their employment. Historically, permanent partial disability rates have been increased by the legislature on an annual basis to keep pace with increases in the cost of living. Because of challenges associated with enacting the last Agreed Bill, permanent partial disability benefits for injured workers have not increased since January, 2013. In an effort to bring permanent partial disability benefits current, AB 724 increases the maximum weekly permanent partial disability rate \$20.00 in 2016, and an additional \$20.00 in 2017. With a similar intent, supplemental benefits will be extended 2 years to include workers injured before January 1, 2003, and increases the maximum supplemental benefit rate.

I'm happy to report that Labor's proposal to add a position at the Department of Justice to investigate and prosecute all sources of fraud in the Worker's Compensation System was included in this Agreed-Upon Bill. This Department of Justice position will be charged with investigating and prosecuting fraud committed by injured workers, insurance carriers, medical and health care providers, and employers. It is critical to ensure that all fraud, waste, or abuse is eliminated from the Worker's Compensation system.

AB 724 reduces the Statute of Limitations for traumatic injuries from 12 years to 6 years. Reducing the Statute of Limitations below 6 years has the potential for causing a wide range of negative impacts to injured workers and health care providers, alike. By way of example, reducing the Statute of Limitations will have the probable effect of shifting future medical costs onto taxpayers, or worse, preventing injured workers from obtaining necessary medical care.

AB 724 provides Administrative Law Judges the authority to issue prospective orders for vocational retraining benefits for future courses of instruction or training. Section 102.18 already allows an Administrative Law Judge the authority to order an employer or insurer to pay for future medical expense that arises from a work-related injury. However, the statutes do not currently allow for an order requiring an employer or insurer to pay vocational retraining benefits until an injured worker has actually enrolled and was attending classes. Unfortunately, many injured workers who have lost their former employment have no other source of income and do not have the financial ability to go to school on their own. As such, these injured workers cannot enroll in or begin school unless the workers compensation insurance carrier is ordered to pay for prospective schooling. AB 724 remedies that inequity.

AB 724 reinstates Section 102.43(5)(c), which sunsetted on April 30, 2014. That statutory provision allowed an injured worker to earn part-time wages up to 24 hours during a period of vocational retraining without placing their temporary total disability benefit in jeopardy. Because the provision had a positive impact during its trial period it was decided to remove the sunset and reinstate the statutory section.

IV. Conclusion

In conclusion, I strongly urge you to support AB 724. The proposed changes to the Worker's Compensation Act contained within this Bill are the product of thoughtful study and intense negotiation participated in by all affected parties, and represent improvements that will keep Wisconsin's Worker's Compensation System stronger and more efficient than any other state in the Nation.