

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6981

BILL NUMBER: HB 1153

NOTE PREPARED: Feb 18, 2022

BILL AMENDED: Feb 17, 2022

SUBJECT: Worker's Compensation.

FIRST AUTHOR: Rep. Lehman

FIRST SPONSOR: Sen. Boots

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Statute of Limitations:* The bill provides that if, after the occurrence of an accident, compensation is paid for temporary total disability or temporary partial disability, then the two-year limitation period to file an application for adjustment of claim begins to run on the last date for which the compensation was paid.

Benefit Increase for Worker's Compensation: The bill also increases benefits for injuries and disablements by 3% each year for four years beginning on July 1, 2022.

Ambulatory Surgical Centers: The bill adds an ambulatory outpatient surgical center to the definition of "medical service facility" under the worker's compensation law. It makes certain changes to the definition of "pecuniary liability."

Clean Claim Payments: The bill establishes clean claim payment requirements related to worker's compensation claims.

The bill removes outdated language. It makes conforming amendments.

Effective Date: July 1, 2022; January 1, 2023.

Explanation of State Expenditures: (Revised) *Summary* - Under the bill, there would be an increase in state expenditures for employee benefits for worker's compensation for state employees and a decrease in state expenditures for medical procedures at ambulatory surgical centers for state employees on worker's compensation. The net expenditures will depend on the state's use of ambulatory surgical centers as a

provider for medical procedures for state employees on worker’s compensation.

The bill could reduce General Fund expenditures by as much as \$60,000 in FY 2023 and \$112,000 in FY 2024 if the state’s use of ambulatory surgical centers for worker’s compensation mirrors that of employers statewide. If the state were to have no savings from the provision on ambulatory surgical centers, the maximum General Fund expenditures for the benefit increases provided under the bill would total \$9,000 in FY 2023 and \$17,000 in FY 2024.

Increasing benefits for employee injuries and disablements would increase total workers’ compensation payments to state employees by an estimated \$26,000 in FY 2023 and \$52,000 in FY 2024. Of this total, approximately two-thirds would come from dedicated and federal funds, and approximately one-third would be state General Fund expenditures (\$9,000 in FY 2023 and \$17,000 in FY 2024).

Capping the cost for medical payments to ambulatory surgical centers could decrease state expenditures by up to \$194,000 in FY 2023 and \$389,000 in FY 2024 (\$65,000 in FY 2023 and \$130,000 in FY 2024 from the General Fund). The actual savings amount would depend on the state’s use of ambulatory surgical centers for state employees undergoing medical procedures under worker’s compensation.

(Revised) *Additional Information - Benefit Increase for Worker’s Compensation:* The proposal increases the maximum weekly wage used to calculate wage replacement benefits, and it increases payments for permanent partial impairment (PPI). These provisions will impact the state as an employer and provider of worker’s compensation benefits. (This bill has the potential to impact all agencies as employers, thus impacting all funds that provide operating funds to agency staff.)

The rate increase for PPI is estimated to increase state expenditures for worker’s compensation by approximately \$13,000 in FY 2023 and by \$27,000 in FY 2024 based on state payments to employees for PPI in FY 2021 of \$441,581. See Table 1 for PPI rate increases under the proposal.

Table 1. Proposed Rates for Permanent Partial Impairment (PPI)

Degrees of Permanent Partial Impairment (PPI)	1-10	11-35	36-50	51-100
Current	\$1,750	\$1,952	\$3,186	\$4,060
FY 2023	\$1,803	\$2,011	\$3,282	\$4,182
FY 2024	\$1,857	\$2,071	\$3,380	\$4,307
FY 2025	\$1,913	\$2,133	\$3,481	\$4,436
FY 2026	\$1,970	\$2,197	\$3,585	\$4,569

The annual increase in wage replacement is estimated to increase the cost of wage replacements for state employees by \$13,000 in FY 2023 and by \$25,000 in FY 2024 based on FY 2021 wage replacement payments for state employees and state staffing data. The benefit increases for wage replacement will only impact individuals with wages above the current maximum. Based on the December 2021 state staffing report, 24% of state employees earn more than the maximum weekly wage of \$1,170 and would receive an increased wage replacement under this proposal if they were injured on the job and eligible to receive workers’ compensation. See Table 2 for increases to wage replacement under the bill.

Table 2. Proposed Increases to Wage Replacement

	Maximum Weekly Wage	Wage Replacement: 2/3 Weekly Wages	500 Weeks Maximum Total Benefit
Current	\$1,170	\$780	\$390,000
FY 2023	\$1,205	\$803	\$402,000
FY 2024	\$1,241	\$827	\$414,000
FY 2025	\$1,278	\$852	\$426,000
FY 2026	\$1,316	\$877	\$439,000

(Revised) *Ambulatory Surgical Centers*: The National Council on Compensation Insurance, Inc. (NCCI) estimates that the cap on payments to ambulatory surgical centers would reduce annual statewide workers' compensation costs by 4.2%. If the state uses ambulatory surgical centers at a similar rate as other employers statewide, this provision would reduce state expenditures for worker's compensation by approximately \$389,000 annually beginning in CY 2023. The exact impact on the state as an employer will depend on the future use of ambulatory surgical centers for state employees' medical procedures under worker's compensation. The state self-insures for purposes of worker's compensation. This bill has the potential to impact all agencies as employers, thus impacting all funds that provide operating funds to agency staff.

Defining ambulatory surgical centers as "medical service facilities" will change the rates that ambulatory surgical centers are paid for surgeries under worker's compensation. Under the bill, providers would receive a rate negotiated by an employer or an employer's insurance company or up to 200% of the provider's Medicare reimbursement rate if an agreement is not reached under negotiation. Under current law, reimbursements for these providers are paid at a rate equal to or less than charges made by medical providers at the 80th percentile in the same community for like services or products.

Research by the Workers Compensation Research Institute (WCRI) shows that since the state instituted worker's compensation reimbursement limits in 2014 for hospitals and hospital outpatient facilities at 200% of Medicare, payments to hospitals and hospital outpatient facilities have leveled off and declined slightly. Payments for ambulatory outpatient surgical center facility services over the same time period have increased and often exceeded payments to hospitals and hospital outpatient facilities for the same procedures. WCRI reports that the average ambulatory outpatient surgical center facility payments in 2016 equaled \$10,783 in Indiana while the average payment for hospital outpatient facility services totaled \$5,717 in the same year.

Clean Claim Payments: State agencies could have increased expenditures for interest charges on payments to medical service providers for services provided to state employees under worker's compensation. Under the bill, interest would be charged on balances for employers or employers' insurance carriers that fail to make payments to service providers in a timely manner for claims that are not disputed.

Statute of Limitations: The proposed changes to the statute of limitations regarding worker's compensation claims represent the current practice of the Worker's Compensation Board.

Explanation of State Revenues:

Explanation of Local Expenditures: See *Explanation of State Expenditures*. The bill will impact local units as employers.

Explanation of Local Revenues:

State Agencies Affected: All agencies as employers.

Local Agencies Affected: All units as employers.

Information Sources: JWF Specialty, state staffing data.

Workers Compensation Research Institute. (2019, September 11). Testimony before the Interim Study Committee on Financial Institutions and Insurance.

https://iga.in.gov/legislative/2019/committees/i_financial_institutions_and_insurance_interim_study_committee_on.

NCCI, Analysis of Indiana House Bill 1153 as introduced on January 6, 2022.

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