

2017 Workforce Safety & Insurance (WSI) Legislative Quick Guide (as of 4/26/17)

HB 1021 (Eng. w/ Senate Amend) WSI Appropriations Bill (Introduced by Appropriations Committee)

House App Vote: DP 19-0 w/ Amend House Vote: Passed 86-5

Senate App Vote: DP 14-0 w/ Amend Senate Vote: Passed 45-0

House Concurs 78-7

Signed by Governor: April 14, 2017

- Provides a WSI biennial budget appropriation of \$72,406,659 and FTE authority for 260.14 FTEs for the 2017-19 biennium.

HB 1086 WSI Injury Services Bill [WSI Board Supports] (WSI Agency Bill)

House IBL Vote: DP 13-0 House Vote: Passed 90-4

Senate IBL Vote: DP 7-0 Senate Vote: Passed 46-0

Signed by Governor: March 2, 2017

- Removes requirement for WSI to copy an injured worker's doctor on a notice of intention to discontinue benefits.
- Clarifies the types of benefits in which WSI can recoup an overpayment that resulted from the receipt of social security benefits.
- Establishes that disputes relating to personal reimbursements will be resolved utilizing the binding dispute resolution process.
- Increases the dollar threshold that constitutes a false claim or false statement from \$500 to \$1,000.
- Changes frequency of vocational rehabilitation pilot program status reports to the legislative workers compensation review committee from annually to biennially.

Fiscal impact: No significant impact to statewide premium rate and reserve levels is anticipated.

HB 1137 (Eng. w/ Senate Amend) General Contractor Liability/Cease and Desist Order [WSI Board Supports]

(Sponsor—Rep. Keiser)

House IBL Vote: DP 14-0 w/ Amend House Vote: Passed 93-0

Senate IBL Vote: DP 7-0 w/ Amend Senate Vote: Passed 47-0

House Concurs 90-0

Signed by Governor: April 13, 2017

- Establishes WSI's method of calculating premiums in the event an employer does not provide a payroll report or a non-complying employer fails to provide reliable payroll information.
- Relocates the general contractor liability statute from the definitions section to its own statute.
- Limits the liability of the general contractor for premiums not paid by a subcontractor or independent contractor to only the work performed under that general contractor.
- Establishes method for WSI to determine premium in the absence of reliable payroll information from a subcontractor or independent contractor.

- Creates a new section allowing WSI to issue a cease and desist order and notice of hearing in the event an employer is operating without workers' compensation coverage.
- Establishes a penalty for those persons employing workers in violation of a cease and desist order in the amount of \$10,000 plus \$100 per day for each day the violation continues.

Fiscal impact: No significant impact to statewide premium rate levels is anticipated.

HB 1156 (Eng. w/ Senate Amend) Medical Marijuana [WSI Board Supports]

(Sponsors—Rep. Keiser, Sen. Klein)

House IBL Vote: **DP 11-2 w/ Amend** House Vote: **Passed 81-9**

Senate IBL Vote: **DP 6-0 w/ Amend** Senate Vote: **Passed 39-8**

House Concurs 83-9

Signed by Governor: April 10, 2017

- Defines medical marijuana for workers' compensation purposes.
- Prohibits payment for medical marijuana.
- Prohibits wage loss payments if they are in any way related to the use of medical marijuana.

Fiscal impact: The proposed bill exempts WSI from paying for the medical marijuana itself and wage loss benefits if the wage loss is related to the use or presence of medical marijuana. If the exemptions are not enacted, or if they are overturned by the courts, then it is expected that numerous injured employees will qualify for its use. In either event, WSI would incur the cost of the drug. Further, as injured employees use medical marijuana, then test positive thereby preventing return to work after a work related injury, the duration and amount of wage loss benefits will likely increase. The increase in benefits could be material depending on the pervasiveness of use.

HB 1235 (Eng. w/ Senate Amend) Legal Counsel for Indigents access to WSI Records [WSI Board Supports w/ Senate Amend]

(Sponsors—Reps. K. Koppelman, Delmore, Heinert, Kasper, Lefor, Roers Jones, Sukut; Sens. Armstrong, Holmberg, D. Larson, G. Lee, Unruh)

House Jud Vote: **DP 11-1 w/ Amend** House Vote: **Passed 88-3**

Senate Jud Vote: **DP 6-0 w/ Amend** Senate Vote: **Passed 45-1**

House Does Not Concur—Conf Committee—Senate Recedes and Further Amends DP 6-0—Passed House 88-2—Passed Senate 45-0

Signed by Governor: April 24, 2017

- Provides the commission on legal counsel for indigents access to WSI records pursuant to 65-05-32 for purposes of determining eligibility for public defender services.

Fiscal impact: No fiscal impact is anticipated.

SB 2048 (Engrossed) Injured Worker Attorney Fees [WSI Board Supports w/ Amendment]

(Interim Legislative Workers Compensation Review Committee Bill)

Senate IBL Vote: **DP 7-0 w/ Amend** Senate Vote: **Passed 46-0**

House IBL Vote: **DP 14-0** House Vote: **Passed 89-0**

Signed by Governor: March 9, 2017

- Provides for payment of an injured worker’s attorney fees and costs at the level in which they prevailed regardless of whether the organization ultimately prevails.

Fiscal impact: The proposed bill will serve to increase injured employee attorney fees in limited instances. The proposed bill may also serve to increase the number of cases proceeding to an administrative hearing. No significant impact to statewide premium rate levels is anticipated.

**SB 2093 WSI Administrative Bill [WSI Board Supports]
(WSI Agency Bill)**

Senate IBL Vote: DP 7-0 Senate Vote: Passed 45-0

House IBL Vote: DP 13-0 House Vote: Passed 94-0

Signed by Governor: March 13, 2017

- Amends statute relating to subrogation liens allowing WSI to bring an action against a third party to recover its lien for benefits paid to an injured employee and in the event WSI’s lien is not recognized by another jurisdiction, confirms that WSI can issue a decision demanding repayment from the injured worker.
- Provides that an interested party can request and WSI shall provide an appealable determination if WSI does not issue an order within 60 days of receiving a request for reconsideration.
- Updates Decision Review Office statute to conform to previous statutory changes.

Fiscal impact: No significant impact to statewide premium rate and reserve levels is anticipated.

**SB 2094 (w/ House Amend.) WSI Employer Services Bill [WSI Board Supports]
(WSI Agency Bill)**

Senate IBL Vote: DP 7-0 Senate Vote: Passed 45-0

House IBL Vote: DP 10-3 w/ Amend House Vote: Passed 81-11

Senate Concurr 47-0

Signed by Governor: March 29, 2017

- Relocates the medical expense assessment statute from Chapter 65-05 to Chapter 65-04.
- Strengthens organization’s ability to collect premiums when warranted.
- Updates statutory reference within the corporate officer liability and disputed decision statutes.
- Increases penalties WSI may assess from \$2,000 to \$5,000 for employers that willfully misrepresent payroll or willfully fail to secure coverage.
- Increases the premium due threshold that would subject an employer to a class C felony for the willful failure to secure coverage from \$500 to \$1,000.
- Establishes a civil penalty in the amount of \$5,000 for an employer who willfully makes a false statement in an attempt to preclude an injured worker from securing benefits and establishes that a violation of this section is a Class A misdemeanor.

Fiscal impact: No significant impact to statewide premium rate levels is anticipated.

**SB 2258 (Engrossed) Pharmacy Claim Fees and Pharmacy Rights [WSI Board Supports w/
Amendment]**

(Sponsors—Sens. Klein, Armstrong, Casper; Reps. Dockter, Keiser, Vigesaa)

Senate IBL Vote: DP 7-0 w/ Amend Senate Vote: Passed 44-0

House IBL Vote: **DP 12-1**
Signed by Governor: April 5, 2017

House Vote: **Passed 84-8**

- Establishes parameters for pharmacy claim fees and pharmacy rights.

Failed Bills

HB 1081 WSI Appropriations Bill [WSI Board Supports]
(Introduced by Appropriations Committee at the request of the Governor)
House App Vote: **DNP** House Vote: **Failed 0-88**

- Provides a WSI biennial budget appropriation of \$72,657,598 and FTE authority for 260.14 FTEs for the 2017-19 biennium.

HB 1223 (Engrossed) Privatization of Workers' Compensation Insurance [WSI Board Opposes]
(Sponsors—Reps. D. Ruby, Rick Becker, M. Nelson, Toman, Senator O. Larsen)
House IBL Vote: **DNP 11-3 w/ Amend** House Vote: **Failed 19-72**

- Provides employers the ability to obtain private insurance for workers' compensation coverage.

Fiscal impact: Anticipate substantial administrative cost increase for both WSI and Insurance Department.

HB 1261 Coverage for Mental-Mental Injuries/AWW Determination for Volunteers/Presumption of Compensability for Certain Conditions of Volunteers [WSI Board Opposes]
(Sponsor—Rep. M. Nelson)
House IBL Vote: **DNP 11-2** House Vote: **Failed--Bill was divided on House Floor. Division A (Sections 1 and 4 of bill) Failed House 12-72; Division B (Sections 2 and 4 of bill) Failed House 16-68; Division C (Sections 3 and 4 of bill) Failed House 18-66. All divisions failed, thus bill failed.**

- Removes requirement that compensability of a mental or psychological condition is only covered if caused by a physical injury and the physical injury with reasonable medical certainty is at least fifty percent of the cause of the mental or psychological condition.
- Makes a mental injury arising from a mental stimulus compensable.
- Provides that in determining compensation benefits for volunteer firefighters, emergency or disaster volunteers, volunteer health practitioners, and community emergency response team members that the organization utilize the greater of the average weekly wage from an injured employee's business or employment for which coverage is required or otherwise secured or the state's average weekly wage, regardless of whether coverage was secured.
- Creates presumption of compensability for volunteer firefighters, emergency or disaster volunteers, volunteer health practitioners, and community emergency response team members for injuries due to heart attack or other heart-related disease, stroke, or physical injury caused by mental stimulus if injury occurs within 24 hours of a volunteer performing services or participating in training.
- Bill would apply to injuries taking place on or after the effective date of the Act.

Fiscal impact: Not quantifiable. Anticipate significant impact to rate and reserve levels.

HB 1262 Study--Regulation of WSI by Insurance Department [WSI Board Opposes]

(Sponsor—Rep. M. Nelson)

House IBL Vote: DNP 12-2

House Vote: Failed 13-75

- Provides for a legislative management study during the 2017-2018 interim of transferring the regulation of the operation of WSI to the Insurance Department.
- Provides for a report of findings to Legislative Management prior to June 1, 2018.

Fiscal impact: To the extent a third party is contracted with to perform the study, there would be costs associated with that contract.