

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: House Bill 1022 (Second Edition)

SHORT TITLE: Workers' Comp./Temp. Total Disability Limit.

SPONSOR(S): Representatives Goforth, Folwell, Hill, and Rhyne

| FISCAL IMPACT | | | | | |
|---|--|--------------------------|----------------------------------|--------------------------|--------------------------|
| | Yes () | No () | No Estimate Available (X) | | |
| | <u>FY 2009-10</u> | <u>FY 2010-11</u> | <u>FY 2011-12</u> | <u>FY 2012-13</u> | <u>FY 2013-14</u> |
| REVENUES | | | | | |
| EXPENDITURES | ***See Assumptions and Methodology*** | | | | |
| POSITIONS (cumulative): | | | | | |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: | All State agencies | | | | |
| EFFECTIVE DATE: | When the bill becomes law. | | | | |

BILL SUMMARY:

H.B. 1022 amends the Workers' Compensation Act to limit the duration of temporary total disability compensation benefits to 300 weeks (5.77 years) or until the claimant is eligible by age for full benefits under the Social Security Act, whichever is longer. Under current law, there is no limit to the length of time a claimant can receive temporary total disability payments. The bill does not apply to claimants receiving permanent total disability benefits. H.B. 1022 is effective when it becomes law and is applicable to claims made on or after that date.

Background

Under current law, if a State employee is determined to be temporarily totally disabled, they are eligible to receive Workers' Compensation benefits equal to 66 and 2/3% of their average weekly wage up to a maximum set by the Industrial Commission. The maximum weekly benefit for injuries occurring in 2009 is \$816. Benefits are paid by the State agency that employed the claimant from funds available.

There is no limit on the length of time a person may claim temporary total disability (TTD) benefits. The State is required to pay benefits until the claimant is able to find a job in a similar

position for a similar wage. In some cases, claims are paid in lump sum settlements, and the claim is closed. In others, it is determined that the claimant is able to work and payments are stopped. For other cases, benefits continue until a settlement is adjudicated by the Industrial Commission, the claimant goes back to work, or the claimant dies.

ASSUMPTIONS AND METHODOLOGY:

This fiscal note applies only to costs or savings to the State for Workers' Compensation benefits. The note only applies to State agencies, including the Department of Public Instruction and public schools employees paid from State funds, and the Department of Transportation. No estimate is made concerning costs or savings in the private sector that may result from the bill.

The bill applies to claims filed on or after the date the bill becomes law. It is possible that a limit on the length of time a claimant may receive benefits will result in cost savings to the State for Workers' Compensation benefits. However, the Fiscal Research Division (FRD) cannot calculate what those potential savings might be. Data regarding future employability, age, and wage level of future claimants is not available. We can estimate some of these figures based on current data, but we do not have access to information regarding the rate of settlement, average length of claims, or other factors that may effect future benefit payments. Therefore, no estimate is available for H.B. 1022. The following sections provide additional information about the availability of data and current open claims.

Availability of Data

All Workers' Compensation claims are adjudicated through the NC Industrial Commission. The Industrial Commission was asked to provide information regarding the number of temporary total disability (TTD) claims in the State (both private and public sector). In addition they were asked to provide information regarding the number of total disability claims for State employees for the past ten years, the number of State employees currently receiving total disability payments, and the age of these employees. The Industrial Commission was unable to provide any of this data. Following is their explanation for this:

First, the parties in a case where TTD is being paid are not required to do more than file an appropriate form when they start paying and file an appropriate form/agreement when they stop paying. Unless there is a dispute regarding TTD in a case, the IC has not needed to investigate or monitor TTD payments and therefore has not diverted its limited resources towards developing a system to do so for all cases.

Second, the IC currently records in its outmoded database the date TTD payments begin in a case, but not when TTD payments stop. Recording whether TTD payments have stopped would require a reconfiguration of the database, as well as additional personnel and training. At this time, tallying the number of cases with ongoing TTD payments would require a review of the individual file for each of the hundreds of thousands of cases in which TTD payments were once initiated.

Please note that the Industrial Commission is in the midst of a multi-year, receipt-funded computer system redesign and overhaul.

Current Open Temporary Total Disability Claims

As of March 31, 2009 there were 121 open temporary total disability (TTD) claims for Department of Transportation (DOT) employees, 1,673 for public school employees (including the Department of Public Instruction and any public school employees paid from State funds), and 1,931 for all other State employees. The total number of open claims as of March 31, 2009 was 3,725. The table below shows the number of open claims, the average age of the claimant, the average length of the claim in days, and the total indemnity (TTD benefits, not including medical payments) paid. Age and payment data for DOT were not available at the time this fiscal note was submitted.

| Open Temporary Total Disability Claims as of March 31, 2009 | | | | |
|--|-------------------------|--------------------------------|--------------------------------|---|
| | Number of Claims | Average Age of Claimant | Average Length of Claim | Total Indemnity Paid as of 3/31/2009 |
| Dept. of Transportation | 121 | Not Available | 1,692 | Not Available |
| Public Schools | 1,673 | 46 | 985 | \$35,380,718 |
| All Other State Agencies | 1,931 | 42 | 1,222 | \$53,506,430 |
| Total | 3,725 | | | \$88,887,148 |

The following table shows the number of new temporary total disability claims opened each year for the past five years.

| New Temporary Total Disability Claims Opened by Year Since FY 2003-04 | | | | | |
|--|-------------------|-------------------|-------------------|-------------------|-------------------|
| | FY 2003-04 | FY 2004-05 | FY 2005-06 | FY 2006-07 | FY 2007-08 |
| Dept. of Transportation | 232 | 197 | 136 | 142 | 123 |
| Public Schools | 1,151 | 1,276 | 1,154 | 1,098 | 1,222 |
| All Other State Agencies | 794 | 960 | 845 | 721 | 729 |
| Total | 2,177 | 2,433 | 2,135 | 1,961 | 2,074 |

The average total number of new TTD claims each year is 2,156. The average age at the time of injury for open TTD claimants (excluding DOT employees) was 44. The average number of days TTD claims had been open as of March 31, 2009 was 1,300 (or 186 weeks). The oldest claim was opened on June 16, 1981. The average cost paid per claim (excluding DOT) as of March 31, 2009 was \$24,633. Because FRD was unable to obtain information related to the closed or settled TTD cases, no estimate is available concerning future benefit payouts.

SOURCES OF DATA: NC Office of State Personnel, NC Industrial Commission, Key Risk Management Services, NC Department of Public Instruction, NC Department of Transportation

TECHNICAL CONSIDERATIONS: None

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DATE: May 13, 2009



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