

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated March 26, 2010)

Drafting Number: LLS 10-0964

Date: April 23, 2010

Prime Sponsor(s): Sen. Tochtrop
Rep. Riesberg

Bill Status: House Business Affairs and Labor

Fiscal Analyst: Clare Pramuk (303-866-2677)

TITLE: CONCERNING WORKERS' COMPENSATION.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012	FY 2012-2013
State Revenue			
State Expenditures Multiple Funding Sources General Fund, Cash Funds, and Federal Funds		possible increase	\$721,644
FTE Position Change			
Effective Date: July 1, 2010, Section 7 is effective January 1, 2011, for injuries sustained on or after January 1, 2012.			
Appropriation Summary for FY 2010-2011: None required.			
Local Government Impact: See Local Government Impact section.			

Summary of Legislation

This *reengrossed* bill changes the Workers' Compensation Act of Colorado as follows:

- clarifies that Medicaid and other indigent health care programs are not considered wages for purposes of worker's compensation;
- allows an injured worker to recover costs other than attorneys fees to pursue an order requiring an insurer to pay for a prescribed treatment plan;
- clarifies that for determining an injured worker's average weekly wage the phrase "at the time of injury" refers to the date of the accident;
- eliminates permanent partial disability from the types of disabilities that require a social security offset;
- establishes standards for an injured worker to refuse an offer of modified employment and not be responsible for his or her termination of employment;
- adds the loss of a tooth and removes the loss of an eye to the list of scheduled injuries;
- requires the Director of Workers' Compensation to adjust the caps on combined disability payments by the same percentage as the adjustment to the state average weekly wage beginning July 1, 2011; and
- prohibits the director or an administrative law judge from conditioning a lump sum payment on the injured workers' waiver of his or her right to pursue permanent total disability payments.

Background

Under current law, temporary disability and permanent partial disability benefits are tied to the state average weekly wage but the benefit caps are set in statute. An injured worker whose impairment rating is 25 percent or less may receive up to \$75,000 from combined temporary disability and permanent partial disability benefits. An injured worker whose impairment rating is greater than 25 percent can receive up to \$150,000 in benefits. Based on a 3 year average, the state has 75 injured workers with impairment ratings up to 25 percent and 23 with impairment ratings above 25 percent per year. The state average weekly wage has increased an average of 3.9 percent over the past 3 years. As shown in table 1, under SB10-187 the caps do not increase until FY 2011-12 but increase by 3.9 percent per year thereafter.

Table 1. Cap Increases on Disability Benefits Under SB10-187				
Fiscal Year	Impairment Rating up to 25%	Cumulative Change	Impairment Rating over 25%	Cumulative Change
FY 2010-11	\$75,000	-	\$150,000	-
FY 2011-12	\$77,925	\$2,925	\$155,850	\$5,850
FY 2012-13	80,964	5,964	161,928	11,928

State Expenditures

State expenditures for workers' compensation claims are expected to increase by \$721,653 in FY 2012-13 due to the increase in the caps on benefits. Because the caps are not increased until July 1, 2011, and apply to injuries on or after January 1, 2012, no change in state expenditures is expected in FY 2010-11. Depending on the number of injuries and the duration of disability benefits provided, an increase in expenditures is possible in FY 2011-12 but cannot be determined. Workers' compensation costs are allocated to state agencies based on claims experience, so funding for any increase will vary by agency and funding source.

Impairment rating of 25 percent or less with \$75,000 cap. Beginning in FY 2012-13, the fiscal note assumes 75 injured state workers with impairment ratings of 25 percent or less will receive up to an additional \$5,964 each for a total increase of \$447,300 in benefits.

Impairment ratings greater than 25 percent with \$150,000 cap. Beginning in FY 2012-13, the fiscal note assumes 23 injured state workers with impairment ratings greater than 25 percent will receive up to an additional \$11,928 each for a total increase of \$274,344 in benefits.

Local Government Impact

As employers who purchase or self-insure for workers' compensation insurance, local governments will be subject to payment of increased benefits. The amount of this increase cannot be determined.

Departments Contacted

Labor and Employment

Personnel and Administration