

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 10-0964

**Date:** March 26, 2010

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

**Bill Status:** Senate Judiciary

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

**TITLE:** CONCERNING WORKERS' COMPENSATION.

<b>Fiscal Impact Summary</b>	<b>FY 2010-2011</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
<b>State Revenue</b>			
<b>State Expenditures</b>			
Multiple Funding Sources General Fund, Cash Funds, and Federal Funds		\$353,925	\$721,653
<b>FTE Position Change</b>			
<b>Effective Date:</b> July 1, 2010, Section 7 is effective January 1, 2011.			
<b>Appropriation Summary for FY 2010-2011:</b> None required.			
<b>Local Government Impact:</b> See Local Government Impact section.			

**Summary of Legislation**

This 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.

<b>Fiscal Year</b>	<b>Impairment Rating up to 25%</b>	<b>Cumulative Change</b>	<b>Impairment Rating over 25%</b>	<b>Cumulative Change</b>
<b>FY 2010-11</b>	<b>\$75,000</b>	<b>-</b>	<b>\$150,000</b>	<b>-</b>
<b>FY 2011-12</b>	<b>77,925</b>	<b>2,925</b>	<b>155,850</b>	<b>5,850</b>
<b>FY 2012-13</b>	<b>80,964</b>	<b>5,964</b>	<b>161,928</b>	<b>11,928</b>

**State Expenditures**

**State expenditures for workers' compensation claims are expected to increase by \$353,925 in FY 2011-12 and \$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, no change in state expenditures are expected in FY 2010-11. Workers' compensation costs are allocated to state agencies based on claims experience, so funding for this increase will vary by agency and funding source.

**Impairment rating of 25 percent or less with \$75,000 cap.** The fiscal note assumes 75 injured state workers with impairment ratings of 25 percent or less will receive up to an additional \$2,925 for a total increase of \$219,375 in benefits. For FY 2012-13, the cap increases by \$5,964 for a total increase of \$447,306 in benefits.

**Impairment ratings greater than 25 percent with \$150,000 cap.** The fiscal note assumes 23 injured state workers with impairment ratings greater than 25 percent will receive up to an additional \$5,850 for a total increase of \$134,550 in benefits. For FY 2012-13, the cap increases by \$11,928 for a total increase of \$274,347 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