

work injury or occupational disease the employer's obligation to pay medical benefits would cease permanently at the end of 780 weeks (15 years). **Section 1** would limit the number of urine screenings an employer would be obligated to pay for.

Section 2 would: allow waiver of utilization review under identified circumstances; prohibit a provider charging a fee for an initial copy of medical records for the worker or their attorney; and require development or adoption of a pharmaceutical formulary.

Section 3 would deem no interest due on delayed payment of income benefits if the delay was caused by the employee.

Section 4 would limit the time to reopen a claim to 4 years after the original award or order becomes final and nonappealable.

Section 5 would bar a claim based on cumulative trauma injury unless notice was given to the employer and application for adjustment of claim was made within 2 years from the date the employee is told by a doctor that the injury is work-related. The right to compensation for cumulative trauma injury is barred if a claim application is not filed within 5 years after the last injurious exposure to the cumulative trauma.

Section 9 would limit liability for compensation for occupational disease to the last employer in whose employment the employee was last exposed to the hazard. Section 9 would require the payment obligor pay for spirometric testing of an employee claiming pulmonary dysfunction unless such test results are invalid because the claimant failed to properly cooperate in the testing, in which case the claimant's right to prosecute its claim would be suspended until they properly cooperate and no compensation would be due the claimant until the claimant did so. Section 9 would extend the deadline for filing a claim for compensation due to the following cancers to 20 years from the last injurious exposure: bladder cancer; brain cancer; colon cancer; non-Hodgkin's lymphoma, kidney cancer, liver cancer, lymphatic or hematopoietic cancer, prostate cancer, testicular cancer, skin cancer, cervical cancer, and breast cancer.

Section 10 would establish new maximum limits on employee and employer attorneys' fees.

Section 11 would establish a presumption that, where an employee's injury is due to voluntary ingestion of prescribed substances in excess of prescribed amounts or nonprescribed substances that caused disturbance of mental or physical capacity, or willful intention of an employee to injure or kill himself or another, such action caused the employee's injury, occupational disease, or death and the employer is not liable for compensation.

Section 12 would allow an employer to recover a pro-rata share of its subrogation lien (indemnity and medical benefits) when an employee recovers a judgment against a third party for the employee's injuries that includes indemnity and medical benefits.

Section 13 would: increase the percentage of Kentucky’s average weekly wage that may be paid as an income benefit from 75% to 82.5% for permanent partial disability, and from 100% to 110% for temporary or permanent total disability; change the age limit on benefits to 70 years (or 2 years after injury, whichever is later); cease income benefits to dependents when the employee would have reached age 70 or 2 years after injury or exposure; offset income benefit payable to certain injured employees by the amount the employee would have paid in taxes or the amount paid for temporary light duty; terminate income benefits for temporary total disability to a professional athlete when their contract expires if they’ve been released to return to employment for which they’ve trained or have experience.

Section 14 would require employment for one year prior to filing a claim for hearing loss.

Section 20 would establish that, notwithstanding that certain sections and subsections of the bill are remedial and are to apply to all claims no matter the date of injury or of last exposure, no award shall be reduced or duration of medical benefits limited that have been fully and finally adjudicated.

The fiscal impact of HB 2 SCS 1 on local governments is indeterminable but likely to be positive. The 15-year limit on payment of medical benefits in some cases and the termination of benefits at age 70 or 2 years after injury in all cases could reduce pay-outs and increase predictability for insurers. The Kentucky Labor Cabinet believes the impact on local governments would be minimally positive and if the bill should result in an increase in benefits paid out such increase would be offset by a decrease in workers’ compensation insurance rates. Eliminating interest on unpaid benefits in some cases, waiving utilization reviews by self-insurers, reducing the number of required drug tests, limiting the time to re-open a claim, the pharmaceutical formularies – all are measures that should financially benefit all employers, including local governments. If the local government purchases workers’ compensation insurance through an insurance carrier or self-insurance group, the provision may result in an indirect cost savings as the reduction in interest rates could lead to lower exposure and, ultimately, lower worker’s compensation insurance rates. There could be direct cost savings if the local government has a high deductible policy and is responsible for payments until its worker’s comp insurance policy kicks in. In addition, pharmaceutical formularies have been found to reduce prescription costs, though they can sometimes result in treatment delay.

Part III: Differences to Local Government Mandate Statement from Prior Versions

HB 2 SCS 1 does not change the fiscal impact on local governments.

The local government mandate statement for HB 2 SCS 1 differs from the GA version as follows:

- HB 2 SCS 1 eliminates the requirement in the GA version that a permanently partially disabled employee re-apply for benefits every 104 weeks after the initial 780 week benefit period expires. Under SCS 1 the claimant must re-apply after the initial benefit period expires, but a judge may award continued benefits for longer than 104 weeks.

- HB 2 SCS 1 adds partial amputation of an arm, amputation or partial amputation of a hand, and permanent total or permanent partial paralysis to Section 1 (9) as work injuries for which an employer's obligation to pay benefits continues for as long as the employee is disabled.
- HB 2 SCS 1 shortens the time an employee has to notify an employer of work-related cumulative trauma injury from 5 years to 2 after the employee is told by a doctor that the cumulative trauma injury is work-related.
- HB 2 SCS 1 eliminates the requirement in HB 2 GA that the employer liable for compensation for occupational disease is the last one at which the claimant was exposed to the hazard for at least one year.
- HB 2 SCS 1 adds a presumption that, if an employee voluntarily ingests an illegal, nonprescribed substance or a prescribed substance in excess of prescribed amounts any injury, occupational disease, or death of the employee is due to that ingestion and the employer is not liable for compensation.
- HB 2 SCS 1 raises the age of termination of income benefits in the GA version from age 67 to age 70.

HB 2 GA adopted HFA (2), which eliminated the requirement in the bill as introduced that a permanently partially disabled employee re-apply for continued income benefits every 104 weeks following the initial 780 week benefit period. Under HB 2 GA the employee must re-apply only one time before the end of the initial 780 week period.

Data Source(s): Kentucky League of Cities; LRC staff

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