

Local Mandate Fiscal Impact Estimate
Kentucky Legislative Research Commission
2017 Regular Session

Part I: Measure Information

Bill Request #: 1013

Bill #: HB 296 GA

Bill Subject/Title: AN ACT relating to workers compensation

Sponsor: Representative Adam Koenig

Unit of Government: City County Urban-County
 Charter County Consolidated Local Unified Local
Government

Office(s) Impacted: Any office that has employees

Requirement: Mandatory Optional

Effect on Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Purpose and Mechanics

The purpose of HB 296 GA is to reduce the rising cost of medical expenses in workers' compensation claims. The bill would change provisions regarding interest accruing on past due benefits, and would amend statutory provisions to address recent decisions of the Kentucky Court of Appeals and Supreme Court.

Section 1(4) of the bill would amend KRS 342.020 to terminate an employer's obligation to pay medical benefits on claims when the employee turns 70 years old, or four years after the employee's date of injury or last exposure, whichever happens **last**. This subsection would not apply to a claim resulting in an award of permanent *total* disability or resulting from injuries listed in subsection (10) of Section 1 (amputation of a limb, loss of hearing, or loss of vision). Section 1 (3) would limit an employer's obligation to pay medical expenses for an employee determined permanently *partially* disabled to 780 weeks. Section 1 (14) would limit the number of drug screenings the employer, insurer, or a payment obligor would be liable for, based on the risk of taking drugs presented by the patient, unless the patient has exhibited aberrant behavior such as multiple lost prescriptions, multiple requests for early drug refills or prescriptions, and other described behaviors.

Section 2 would amend KRS 342.035 to provide for waiver of required utilization review by a self-insured employer in certain circumstances.

Section 3 would amend KRS 342.040 to provide that no interest shall accrue after filing an application to resolve a workers comp claim unless an administrative law judge determines that the employer, carrier, or payment obligor caused a delay in payment of benefits. That same section would reduce interest payable on delayed payments from 12% to 6%, and would reduce interest payable on benefits denied, delayed or terminated without reasonable foundation from the current 18% to 12%.

Section 4 would amend KRS 342.125, which addresses reopening and review of a workers comp award, to provide that an order granting or denying benefits entered after an original final award will not extend time to reopen a claim.

Section 5 of the bill would extend the same notice and application requirements that apply to other work-related injuries to claims for compensation for cumulative trauma injury, and would bar the right to workers compensation unless done.

Section 6 would amend KRS 342.320 to raise the maximum attorney's fees for workers compensation claims, whether on behalf of the employee or the employer, from \$12,000 to \$18,000.

Section 7 would amend KRS 342.700 to provide that, when an employer has paid compensation to an injured employee for which a third person is legally liable, the employer may recover from the third person medical expenses it has paid to or on behalf of the injured employee, and is liable only for the employer's pro-rata share of the employee's legal fees and expense.

Section 8 would amend KRS 342.730 to provide that, where an employee is entitled to income benefits for temporary total disability and returns to light duty or alternative job duty, the income benefits otherwise payable would be offset against the wages paid to the employee for the light- or alternative-duty work. That Section would also increase the maximum income benefits for temporary or permanent total disability from 100% to 110% of the state average weekly wage, and for permanent partial disability from 75% to 82.5% of the state average weekly wage.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of HB 296 on local governments is indeterminable but would be positive.

The impact of HB 296 on local governments would arise in their capacity as employers. The 15-year (780 week) limit on payment of medical benefits in some cases and the termination of benefits at age 70 or four (4) years after injury in all cases except for permanent partial disability claims or catastrophic injury claims would reduce pay-outs and increase predictability for insurers. Reducing interest on unpaid benefits, waiving

utilization reviews by self-insurers, reducing the number of required drug tests, prohibition on accrual of interest on income benefits unless the employer or insurance carrier caused a delay in payments – 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. The raise in the maximum income benefits payable for temporary or permanent total disability and for permanent partial disability represents a potential increase in the maximum obligation of an employer, which could result in higher insurance premiums for local governments.

Data Sources: LRC staff, Department of Worker's Claims

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/23/17