

HB 38:WORKERS' COMPENSATION BENEFITS IN THE CASE OF PERMANENT PARTIAL IMPAIRMENT AND DEATH

Representative Josephson, District 17

April 17th, 2018

Senate Finance Committee

SECTIONAL/WALKTHROUGH

PERMANENT PARTIAL IMPAIRMENT (PPI) INDEX CPI ADJUSTMENT

Section 2

- AS 23.30.190(a), adjusts the Whole Person Value for inflation
 - **Increase of 44.35% from \$177,000 to \$255,506**
 - This value was originally set at \$135,000 in 1988, and was *last adjusted for inflation 18 years ago*
 - How are PPI benefits calculated?
 - Percentage of disability x \$177,000
 - Percentage of disability determined by the American Medical Association Guides to the Evaluation of Permanent Impairment

Section 3

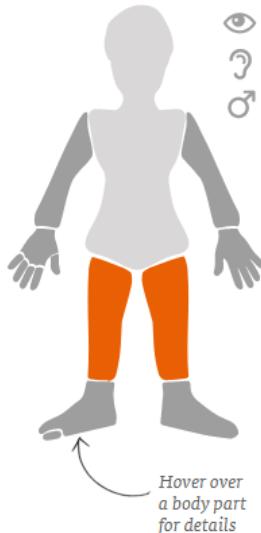
- Requires that the Whole Person Value used to calculate PPI benefits be adjusted for inflation on an annual basis

WHY INCREASE THE PPI INDEX?

The maximum compensation for one Leg in Alaska is \$70,800

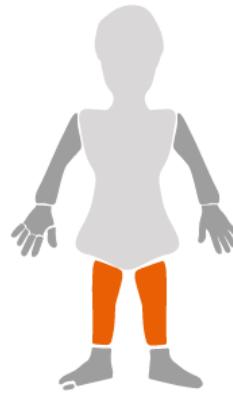
National Average

\$153,221



Alaska

\$70,800



Difference from National Average

— LOWER SAME + HIGHER

Arm	— \$63,678
Leg	— \$82,421
Hand	— \$49,350
Thumb	— \$1,722
Index Finger	— \$5,004
Middle Finger	— \$1,526
Ring Finger	— \$5,810
Pinky	— \$2,493
Foot	— \$47,529
Big Toe	— \$14,586
Eye	NOT AVAILABLE
Ear	NOT AVAILABLE
Testicle	NOT AVAILABLE

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SOURCES: ProPublica research of state workers' compensation laws. See the [full methodology](#) for details. Data last updated Feb 27, 2015.
Additional research by Abbie Nehrung.

- Inflation has degraded this value for 18 years
- Depending on the body part, Alaska ranks around the 30th percentile compared to other states
- The Alaska AFL-CIO unanimously passed a resolution in 2016 asking the legislature to adjust this value for inflation

NOTICE OF DEATH BENEFITS

Section 4

- Requires that in the case of work-related death, the employer must notify the personal representative of the employee's estate of:
 1. Compensation available
 2. Statute of limitations for obtaining Workers' Compensation benefits
 3. Where to obtain legal and grief counselors
- Requires that the employer notify immediate family members or dependents if the personal representative is unknown

DEATH BENEFIT FOR FINANCIALLY DEPENDENT FAMILY MEMBERS

Section 5(4)

- If there is no surviving spouse or financially dependent children, immediate family members are eligible for a death benefit of 42% of spendable weekly wages
 - Capped at \$20,000
 - **Has not been adjusted for inflation since 1968**
 - HB38 conservatively increases this value to \$100,000
 - If adjusted for inflation, this value would fall somewhere between \$140,000-150,000
 - Why raise the cap?
 - \$20,000 in wages cannot do in 2018 what it did in 1968

NEW DEATH BENEFIT

Section 5(6)

- Creates a new death benefit in the case that the deceased worker has no surviving spouse or children, and no financially dependent family members
 - Currently the only benefit provided to family members of deceased workers of this type is up to \$10,000 in funeral costs
 - \$70,000 payable in a lump sum to a surviving parent if there is one, \$35,000 to each if there are two, or \$70,000 divided equally amongst all legal parents if there are more than two.
 - If there are no surviving parents, the estate of the deceased would receive the \$70,000 death benefit
 - This amount was taken from a similar benefit provided in the state of Louisiana

WHY CREATE A DEATH BENEFIT FOR WORKERS WITHOUT DEPENDENTS?

- “Grand Bargain” of Workers’ Compensation means families cannot sue for wrongful death
- Families of all other types of workers receive some sort of compensation
- 13 other states provide similar death benefits
 - Their reason: remaining financial obligations often follow unexpected death
- **Nominal fiscal impact**
- Provides a solution without compromising the existing system of Workers’ Compensation

WHY NOT OPEN THIS TO LITIGATION?

- Undermines foundational structure of our Workers’ Compensation system
- Lawsuit already allowed in cases with “intent to harm”
- No other state allows litigation in Workers’ Compensation cases with gross negligence
- Unfair to employers who pay premiums for protection against potential financial burden of lawsuit
- Benefits don’t “flow” to dependent family members
- Jeopardizes both the stability of employers and families of the deceased

DEATH BENEFITS FOR CHILDREN OF THE DECEASED

Section 6

- Under current statute, children of deceased workers are only eligible for benefits as long as they are considered a child under AS 23.30.395(8)
- **HB38 extends the eligibility for children of the deceased worker to five years after the person is no longer consider a child under AS 23.30.395(8)**
- Why?
 - Widow(er)s receive benefits for 12 years following the death of the deceased employee
 - A child of the deceased may receive benefits for an incredibly short period of time

FISCAL IMPACTS

PPI INCREASE

- Increase in Whole Body Value for calculating PPI payouts by 44.35%
 - Based on a 10-year average, this is projected to increased PPI payouts by \$512,850
 - Cost passed on via increased receipt authority to the Division of Risk Management
 - DVR would increase its payroll deductions accordingly to garnish necessary funds
- Subsequent Increase in Second Injury Fund (SIF) fees of \$30,771
 - SIF fees calculated as 6% of total benefits paid the previous FY
 - Increase of PPI benefits of \$512,850 leads to increase in second injury fund fees by 6% of \$512,000, or \$30,771
 - If the SIF were to be phased out, these fees would continue to decrease until they ceased to be necessary

FATAL DEATH BENEFITS

1. Death benefit for deceased workers without surviving spouse, children, or financially dependent family members:
 - Difficult to determine cost by fiscal year – can't predict workplace deaths
 - Only one state employee has died due to a work-related injury in the past five years
 - DRM could absorb costs associated with these deaths due to their infrequency
2. Increase to benefit for financially dependent family members **and** extension of eligibility for children
 - Zero fiscal impact
 - **Fiscal note states zero fiscal impact for fatal death benefits**

QUESTIONS?