

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

Representative Josephson, District 17

April 17<sup>th</sup>, 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

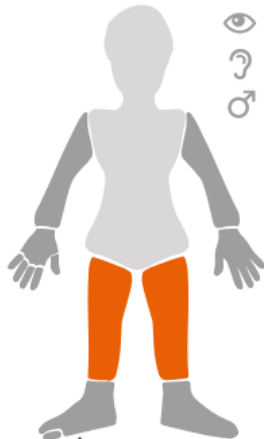
- Requires that the Whole Person Value used to calculate PPI benefits be adjusted for inflation on an annual basis

# WHY INCREASE THE PPI INDEX?

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

## National Average

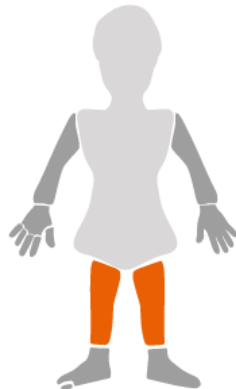
**\$153,221**



Hover over  
a body part  
for details

## 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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- Inflation has degraded this value for 18 years
- Depending on the body part, Alaska ranks around the 30<sup>th</sup> 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?