

LRB-4097/2

GMM:kjfrs

## 2013 - 2014 LEGISLATURE

**2013 SENATE BILL 550**

February 3, 2014 - Introduced by Senator GROTHMAN, cosponsored by Representative KNODL. Referred to Committee on Judiciary and Labor.

1           **AN ACT** *to renumber and amend* 102.07 (12m), 102.125,  
2                           102.18 (1) (b), 102.23  
3                           (1) (a), 102.28 (2) (c), 102.28 (7) (b), 102.44 (1) (c) and 102.44  
4                           (4); *to amend*  
5                           20.445 (1) (ra), 101.654 (2) (b), 102.01 (2) (d), 102.03 (4),  
6                           102.04 (1) (a), 102.04  
7                           (2m), 102.07 (1) (a), 102.07 (1) (b), 102.07 (3), 102.07 (7) (a),  
8                           102.07 (10), 102.077  
9                           (1), 102.077 (2), 102.11 (1) (intro.), 102.125 (title), 102.13 (2)  
10                          (b), 102.13 (2) (c),  
11                          102.16 (1m) (a), 102.16 (2) (d), 102.17 (1) (a) 3., 102.17 (4),  
12                          102.18 (1) (bg) 1.,  
13                          102.18 (3), 102.18 (4) (b), 102.21, 102.23 (1) (c), 102.23 (1)  
14                          (cm), 102.28 (2) (a),  
                          102.28 (2) (b) (title), 102.28 (2) (c) (title), 102.28 (2) (d), 102.28  
                          (7) (a), 102.29 (1)  
                          (b) 2., 102.29 (8), 102.31 (2) (b) 2., 102.315 (2), 102.425 (3) (b),  
                          102.425 (4) (a),  
                          102.425 (4) (b), 102.425 (4m) (b), 102.43 (5) (c), 102.44 (1) (ag),  
                          102.44 (1) (ag),  
                          102.44 (1) (am), 102.44 (1) (b), 102.44 (3), 102.65 (4) (intro.),  
                          102.75 (1), 102.75  
                          (1m), 102.75 (2), 102.75 (4), 102.81 (1) (a), 108.10 (4) and  
                          165.60; and *to create*  
                          102.07 (12m) (a), 102.125 (2), 102.16 (2) (i), 102.28 (2) (bm),  
                          102.28 (2) (c) 2.,  
                          102.28 (7) (bm), 102.423, 102.425 (3) (am), 102.44 (1) (c) 2.,  
                          102.44 (1) (c) 3.,

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1 102.44 (1m), 102.44 (4) (b), 102.44 (4m), 102.445, 102.75 (1g), 102.80  
2 (1) (f) and  
3 102.81 (1) (c) of the statutes; **relating to:** various changes to  
4 the worker's  
compensation law, granting rule-making authority, and  
making an  
appropriation.

*Analysis by the Legislative Reference Bureau*

This bill makes various changes to the worker's compensation law, as administered by the Department of Workforce Development (DWD).

**GENERAL COVERAGE**

***Local governmental units***

Under current law, each county, city, town, village, school district, sewer district, drainage district, long-term care district, and other public or quasi-public corporation (municipality) is liable for worker's compensation when an employee in the service of the municipality, whether elected, appointed, or under a contract of hire, is injured while performing services growing out of and incidental to his or her employment.

This bill changes the term "municipality" to "local governmental unit" for purposes of the worker's compensation law and redefines that term to mean a political subdivision of this state; a special purpose district or taxing jurisdiction in this state; an instrumentality, corporation, combination, or subunit of any of the foregoing; or any other public or quasi-public corporation. Under current law, cities, villages, towns, and counties are political subdivisions of this state; special purpose districts include school districts, sewer districts, drainage districts, long-term care districts, and other districts created for special purposes; and taxing jurisdictions are entities, not including the state, that are authorized by law to levy property taxes.

***Postsecondary students participating in work study programs***

Currently, a student of a public school or a private school, while he or she is engaged in performing services as part of a school work training, work experience, or work study program, who is not on the payroll of an employer that

is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of a school district or private school that elects to name the student as an employee for purposes of worker's compensation coverage. Also, under current law, a student who is named as an employee of a school district or private school for purposes of worker's compensation coverage and who makes a claim for worker's compensation against his or her school district or private school may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose.

This bill extends those provisions to a student of an institution within the University of Wisconsin System, a technical college, a tribally controlled college controlled by an Indian tribe that has elected to become subject to the worker's

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compensation law, a school approved by the Educational Approval Board, or a private, nonprofit institution of higher education located in this state (institution of higher education). Specifically, under the bill, a student of an institution of higher education, while he or she is engaged in performing services as part of a school work training, work experience, or work study program, who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of an institution of higher education that elects to name the student as an employee for purposes of worker's compensation coverage. The bill also provides that a student who is named as an employee of an institution of higher education for purposes of worker's compensation coverage and who makes a claim for worker's compensation against that institution may not also make a claim for worker's compensation or maintain an

action in tort  
against the employer that provided the work training or work  
experience from which  
the claim arose.

#### PAYMENT OF BENEFITS

##### *Maximum weekly compensation for permanent partial disability*

Under current law, permanent partial disability benefits are  
subject to  
maximum weekly compensation rates specified by statute. Currently,  
the maximum  
weekly compensation rate for permanent partial disability is \$322.  
This bill  
increases that maximum weekly compensation rate to \$337 for  
injuries occurring  
before January 1, 2015, and to \$352 for injuries occurring on or after  
that date.

##### *Supplemental benefits*

Under current law, an injured employee who is receiving the  
maximum weekly  
benefit in effect at the time of the injury for permanent total disability  
or continuous  
temporary total disability resulting from an injury that occurred  
before January 1,  
2001, is entitled to receive supplemental benefits in an amount that,  
when added to  
the employee's regular benefits, equals \$582. Those supplemental  
benefits are  
payable in the first instance by the employer or insurer, but the  
employer or insurer  
then is entitled to reimbursement for those supplemental benefits  
paid from the  
work injury supplemental benefit (WISB) fund, which is a fund that,  
among other  
things, is used to pay supplemental worker's compensation to injured  
employees  
with permanent total disability.

This bill makes an employee who is injured prior to January  
1, 2003, eligible  
for those supplemental benefits beginning on the effective date of the  
bill and  
increases the maximum supplemental benefit amount for a week of  
disability  
occurring after the effective date of the bill to an amount that, when  
added to the  
employee's regular benefits, equals \$669.

The bill also terminates reimbursement from the WISB fund  
for supplemental  
benefits paid by employers or insurers beginning on the effective date

of the bill. For supplemental benefits paid by an insurer for an injury that occurs before July 1, 2015, the bill provides that reimbursement of those benefits is from the worker's compensation operations fund and not from the WISB fund. To fund that reimbursement, the bill requires DWD to collect from each licensed worker's compensation carrier the proportion of reimbursement approved by DWD for

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supplemental benefits paid in the year before the previous year that the total indemnity paid or payable by the carrier in worker's compensation cases initially closed during the preceding calendar year bore to the total indemnity paid in cases closed the previous calendar year by all carriers.

### *Traumatic injuries*

Under current law, an application for worker's compensation that is not filed within 12 years from the date of the injury or from the date that worker's compensation, other than for treatment or burial expenses, was last paid, whichever is later, is barred by the statute of limitations, except that in certain cases of traumatic injury there is no statute of limitations. In cases in which there is no statute of limitations, benefits or treatment expenses for traumatic injury becoming due 12 years after the date of injury or the date that compensation was last paid, whichever is later, are paid by DWD from the WISB fund if that date is before April 1, 2006.

This bill provides that an application for worker's compensation for a traumatic injury that is not filed within *nine* years from the date of injury or the date that worker's compensation, other than for treatment or burial expenses, was last paid, whichever is later, is barred by the statute of limitations. The bill also provides that for traumatic injuries for which there is no statute of limitations benefits or treatment expenses for traumatic injury becoming due *nine* years after the date of injury or the date that compensation was last paid, whichever is later,

are paid by  
DWD from the WISB fund, if that date is before April 1, 2006.

### ***Indexing of benefits***

Under current law, subject to certain exceptions, the amount of an injured employee's worker's compensation benefits is determined in accordance with the law that is in effect as of the date of injury, regardless of the length of time that has elapsed since that date.

This bill provides for the indexing of the weekly benefit for permanent total disability or continuous temporary total disability resulting from an injury that occurs on or after July 1, 2015. Specifically, under the bill, an injured employee who is receiving worker's compensation for permanent total disability or continuous temporary total disability more than 24 months after the date of injury resulting from an injury that occurs on or after July 1, 2015, is entitled to receive the maximum rate that is in effect at the time the benefit accrues and becomes payable for periods of disability occurring more than six years after the date of injury.

The bill similarly provides for the indexing of the weekly benefit for permanent partial disability. Specifically, under the bill, an injured employee who is receiving worker's compensation for permanent partial disability is entitled to receive the maximum rate that is in effect at the time the benefit accrues and becomes payable for periods of permanent partial disability beginning with the 201st week of permanent partial disability.

### ***Vocational rehabilitation***

Under current law, an injured employee is entitled to receive compensation for temporary disability while the employee is receiving vocational rehabilitation services under the federal Rehabilitation Act of 1973. If, however, the injury causes

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only partial disability, the employee's weekly indemnity is the proportion of the weekly indemnity rate for total disability that the actual wage loss of the injured employee bears to the injured employee's average weekly wage at the

time of injury,  
*except* that compensation for temporary disability on account of  
receiving vocational  
rehabilitation services shall not be reduced on account of any wages  
earned for the  
first 24 hours worked by an employee during a week in which the  
employee is  
receiving those services and only hours worked in excess of 24 during  
that week shall  
be offset against the employee's average weekly wage in calculating  
compensation  
for temporary disability. That exception, however, does not apply after  
April 30,  
2014. This bill extends that exception to April 30, 2016.

***Continuation of health care coverage***

Currently, the family and medical leave law requires an  
employer to maintain  
group health insurance coverage during a period an employee takes  
family or  
medical leave under the conditions that applied immediately before  
the family or  
medical leave began. If the employee continues making any  
contribution required  
for participation in the group health insurance plan, the employer  
must continue  
making group health insurance premium contributions as if the  
employee has not  
taken the family or medical leave.

This bill similarly requires an employer that at the time of an  
injured  
employee's injury is providing the injured employee with group health  
care coverage  
to maintain that coverage during the injured employee's period of  
temporary  
disability at the level and under the conditions that the employer  
would have  
provided coverage if the injured employee had continued in  
employment  
continuously during that period of temporary disability, without  
regard to the  
injured employee's employment status during that period. Under the  
bill, if during  
an injured employee's period of temporary disability the injured  
employee continues  
making any contributions required of the injured employee for  
participation in the  
plan providing the employee's group health care coverage, the  
employer must  
continue making any contributions required of the employer for the  
injured

employee's participation in that plan as if the injured employee were not in a period of temporary disability.

The bill provides that any employer that fails to maintain group health care coverage for an injured employee or the employer's worker's compensation insurer is liable to the injured employee for an amount that is equal to 100 percent of the contributions required of the employer that the employer failed to pay, in addition to any temporary disability benefits payable under the worker's compensation law. That liability also applies to an employer that fails to maintain group health care coverage provided at the time of injury for an injured employee or to the employer's worker's compensation insurer in a case in which the employer's liability for worker's compensation for the employee's injury or the period of the employee's temporary disability is in dispute, if the injured employee submits the dispute to DWD and the injury or period of disability is found to be compensable under the worker's compensation law. Under the bill, if an employer fails to maintain group health care coverage for an injured employee as required under the bill, the injured employee may request DWD to conduct a hearing on the violation. If, after hearing, the

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hearing examiner finds that the employer has failed to maintain group health care coverage as required under the bill, the hearing examiner may order the employer to pay the injured employee the contributions for group health care coverage that the employer failed to pay.

### ***Prescription drug treatment***

Under current law, an employer or insurer is liable for providing medicines as may be reasonably required to cure and relieve an injured employee from the effects of an injury sustained while performing services growing out of and incidental to employment. Current law, however, limits the liability of an employer or insurer for the cost of a prescription drug dispensed for outpatient use by an injured employee



to the average wholesale price of the prescription drug as quoted in the Drug Topics Red Book (average wholesale price).

This bill provides that if a prescription drug dispensed for outpatient use by an injured employee is a repackaged prescription drug, the liability of the employer or insurer for the cost of the repackaged prescription drug is limited to the average wholesale price of the prescription drug set by the original manufacturer of the prescription drug, except that if the National Drug Code number of the prescription drug as packaged by the original manufacturer cannot be determined from the billing statement submitted to the employer or insurer, that liability is limited to the average wholesale price of the lowest-priced drug product equivalent. That limitation of liability, however, does not apply to a repackaged prescription drug dispensed from a retail, mail-order, or institutional pharmacy.

#### HEARINGS AND PROCEDURES

##### *Health care records in electronic format*

Under current law, a physician, chiropractor, psychologist, podiatrist, dentist, physician assistant, advance practice nurse prescriber, hospital, or health service provider, upon request by an injured employee, employer, insurer, or DWD, must provide that person with any written material that is reasonably related to an injury for which the employee claims worker's compensation, upon payment of the actual cost of providing those materials, not to exceed the greater of 45 cents per page or \$7.50 per request, plus the actual costs of postage.

This bill permits that material to be provided in electronic format upon payment of \$26 per request.

##### *Final practitioner's report*

Under current law, if an injured employee has a period of temporary disability of more than three weeks or a permanent disability, has undergone surgery to treat an injury, other than surgery to correct a hernia, or sustains an eye injury requiring medical treatment on three or more occasions off the employer's premises, the

employer or insurer must submit to DWD a final treating practitioner's report. Current law, however, prohibits DWD from requiring submission of that report when the employer or insurer denies the employee's claim for compensation and the employee does not contest that denial. This bill limits that prohibition to cases in which the employer or insurer denies the employee's claim for compensation *in its entirety*.

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### ***Prospective vocational rehabilitation training orders***

Under current law, any party in interest may submit to DWD any controversy concerning worker's compensation and DWD, after hearing, must issue an order determining the rights of the parties regarding the controversy. Current law also permits DWD to issue interlocutory, *i.e.*, nonfinal, findings, orders, and awards, which may be enforced in the same manner as final awards. Current law specifically permits DWD to include in an interlocutory or final award or order an order directing the employer or insurer to pay for any future treatment that may be necessary to cure and relieve an injured employee from the effects of the employee's injury.

This bill permits DWD to include in an interlocutory or final award or order an order directing the employer or insurer to pay for a future course of instruction or other rehabilitation training services provided under a rehabilitation training program.

### ***Administrative review of a worker's compensation decision***

Under current law, a party to a worker's compensation proceeding may petition the Labor and Industry Review Commission (LIRC) for review of a DWD hearing examiner's decision awarding or denying worker's compensation (petition for review) if DWD or LIRC receives the petition for review within 21 days after DWD mailed a copy of the examiner's findings and order to the petitioner's last-known address. Currently, LIRC must dismiss a petition for review that is not timely filed

unless the petitioner shows probable good cause that the reason for failure to timely file the petition was beyond the petitioner's control. This bill requires a party to file a petition for review with LIRC, not DWD. The bill also requires LIRC to dismiss a petition for review that is not filed within those 21 days unless the petitioner shows that the petition was filed late for a reason that was beyond the petitioner's control.

Under current law, within 28 days after a decision of LIRC is mailed to the last-known address of each party to a worker's compensation proceeding, LIRC may, on its own motion, set aside the decision for further consideration. This bill permits LIRC to set aside a decision within 28 days after the date of the decision, not the date of its mailing.

LRB-3729/2

GMM:kjf:jm

## 2013 - 2014 LEGISLATURE

**2013 ASSEMBLY BILL 711**

January 31, 2014 - Introduced by Representative KNODL, cosponsored  
by Senator  
GROTHMAN. Referred to Committee on Labor.

1       **AN ACT** *to renumber and amend* 102.07 (12m), 102.125,  
2           102.18 (1) (b), 102.23  
3           (1) (a), 102.28 (2) (c), 102.28 (7) (b), 102.44 (1) (c) and 102.44  
4           (4); *to amend*  
5           20.445 (1) (ra), 101.654 (2) (b), 102.01 (2) (d), 102.03 (4),  
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8           102.07 (10), 102.077  
9           (1), 102.077 (2), 102.11 (1) (intro.), 102.125 (title), 102.13 (2)  
10          (b), 102.13 (2) (c),  
11          102.16 (1m) (a), 102.16 (2) (d), 102.17 (1) (a) 3., 102.17 (4),  
12          102.18 (1) (bg) 1.,  
13          102.18 (3), 102.18 (4) (b), 102.21, 102.23 (1) (c), 102.23 (1)  
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            102.28 (2) (b) (title), 102.28 (2) (c) (title), 102.28 (2) (d), 102.28  
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            102.07 (12m) (a), 102.125 (2), 102.16 (2) (i), 102.28 (2) (bm),  
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2 (1) (f) and  
3 102.81 (1) (c) of the statutes; **relating to:** various changes to  
4 the worker's  
compensation law, granting rule-making authority, and  
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*Analysis by the Legislative Reference Bureau*

This bill makes various changes to the worker's compensation law, as administered by the Department of Workforce Development (DWD).

**GENERAL COVERAGE**

***Local governmental units***

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This bill changes the term "municipality" to "local governmental unit" for purposes of the worker's compensation law and redefines that term to mean a political subdivision of this state; a special purpose district or taxing jurisdiction in this state; an instrumentality, corporation, combination, or subunit of any of the foregoing; or any other public or quasi-public corporation. Under current law, cities, villages, towns, and counties are political subdivisions of this state; special purpose districts include school districts, sewer districts, drainage districts, long-term care districts, and other districts created for special purposes; and taxing jurisdictions are entities, not including the state, that are authorized by law to levy property taxes.

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is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of a school district or private school that elects to name the student as an employee for purposes of worker's compensation coverage. Also, under current law, a student who is named as an employee of a school district or private school for purposes of worker's compensation coverage and who makes a claim for worker's compensation against his or her school district or private school may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose.

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#### PAYMENT OF BENEFITS

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This bill  
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things, is used to pay supplemental worker's compensation to injured  
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This bill makes an employee who is injured prior to January  
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for those supplemental benefits beginning on the effective date of the  
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increases the maximum supplemental benefit amount for a week of  
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occurring after the effective date of the bill to an amount that, when  
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The bill also terminates reimbursement from the WISB fund  
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of the bill. For supplemental benefits paid by an insurer for an injury that occurs before July 1, 2015, the bill provides that reimbursement of those benefits is from the worker's compensation operations fund and not from the WISB fund. To fund that reimbursement, the bill requires DWD to collect from each licensed worker's compensation carrier the proportion of reimbursement approved by DWD for

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supplemental benefits paid in the year before the previous year that the total indemnity paid or payable by the carrier in worker's compensation cases initially closed during the preceding calendar year bore to the total indemnity paid in cases closed the previous calendar year by all carriers.

### *Traumatic injuries*

Under current law, an application for worker's compensation that is not filed within 12 years from the date of the injury or from the date that worker's compensation, other than for treatment or burial expenses, was last paid, whichever is later, is barred by the statute of limitations, except that in certain cases of traumatic injury there is no statute of limitations. In cases in which there is no statute of limitations, benefits or treatment expenses for traumatic injury becoming due 12 years after the date of injury or the date that compensation was last paid, whichever is later, are paid by DWD from the WISB fund if that date is before April 1, 2006.

This bill provides that an application for worker's compensation for a traumatic injury that is not filed within *nine* years from the date of injury or the date that worker's compensation, other than for treatment or burial expenses, was last paid, whichever is later, is barred by the statute of limitations. The bill also provides that for traumatic injuries for which there is no statute of limitations benefits or treatment expenses for traumatic injury becoming due *nine* years after the date of injury or the date that compensation was last paid, whichever is later,



are paid by  
DWD from the WISB fund, if that date is before April 1, 2006.

### ***Indexing of benefits***

Under current law, subject to certain exceptions, the amount of an injured employee's worker's compensation benefits is determined in accordance with the law that is in effect as of the date of injury, regardless of the length of time that has elapsed since that date.

This bill provides for the indexing of the weekly benefit for permanent total disability or continuous temporary total disability resulting from an injury that occurs on or after July 1, 2015. Specifically, under the bill, an injured employee who is receiving worker's compensation for permanent total disability or continuous temporary total disability more than 24 months after the date of injury resulting from an injury that occurs on or after July 1, 2015, is entitled to receive the maximum rate that is in effect at the time the benefit accrues and becomes payable for periods of disability occurring more than six years after the date of injury.

The bill similarly provides for the indexing of the weekly benefit for permanent partial disability. Specifically, under the bill, an injured employee who is receiving worker's compensation for permanent partial disability is entitled to receive the maximum rate that is in effect at the time the benefit accrues and becomes payable for periods of permanent partial disability beginning with the 201st week of permanent partial disability.

### ***Vocational rehabilitation***

Under current law, an injured employee is entitled to receive compensation for temporary disability while the employee is receiving vocational rehabilitation services under the federal Rehabilitation Act of 1973. If, however, the injury causes

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only partial disability, the employee's weekly indemnity is the proportion of the weekly indemnity rate for total disability that the actual wage loss of the injured employee bears to the injured employee's average weekly wage at the

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*except* that compensation for temporary disability on account of  
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continuously during that period of temporary disability, without  
regard to the  
injured employee's employment status during that period. Under the  
bill, if during  
an injured employee's period of temporary disability the injured  
employee continues  
making any contributions required of the injured employee for  
participation in the  
plan providing the employee's group health care coverage, the  
employer must  
continue making any contributions required of the employer for the  
injured

employee's participation in that plan as if the injured employee were not in a period of temporary disability.

The bill provides that any employer that fails to maintain group health care coverage for an injured employee or the employer's worker's compensation insurer is liable to the injured employee for an amount that is equal to 100 percent of the contributions required of the employer that the employer failed to pay, in addition to any temporary disability benefits payable under the worker's compensation law. That liability also applies to an employer that fails to maintain group health care coverage provided at the time of injury for an injured employee or to the employer's worker's compensation insurer in a case in which the employer's liability for worker's compensation for the employee's injury or the period of the employee's temporary disability is in dispute, if the injured employee submits the dispute to DWD and the injury or period of disability is found to be compensable under the worker's compensation law. Under the bill, if an employer fails to maintain group health care coverage for an injured employee as required under the bill, the injured employee may request DWD to conduct a hearing on the violation. If, after hearing, the

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hearing examiner finds that the employer has failed to maintain group health care coverage as required under the bill, the hearing examiner may order the employer to pay the injured employee the contributions for group health care coverage that the employer failed to pay.

### ***Prescription drug treatment***

Under current law, an employer or insurer is liable for providing medicines as may be reasonably required to cure and relieve an injured employee from the effects of an injury sustained while performing services growing out of and incidental to employment. Current law, however, limits the liability of an employer or insurer for the cost of a prescription drug dispensed for outpatient use by an injured employee

to the average wholesale price of the prescription drug as quoted in the Drug Topics Red Book (average wholesale price).

This bill provides that if a prescription drug dispensed for outpatient use by an injured employee is a repackaged prescription drug, the liability of the employer or insurer for the cost of the repackaged prescription drug is limited to the average wholesale price of the prescription drug set by the original manufacturer of the prescription drug, except that if the National Drug Code number of the prescription drug as packaged by the original manufacturer cannot be determined from the billing statement submitted to the employer or insurer, that liability is limited to the average wholesale price of the lowest-priced drug product equivalent. That limitation of liability, however, does not apply to a repackaged prescription drug dispensed from a retail, mail-order, or institutional pharmacy.

#### HEARINGS AND PROCEDURES

##### *Health care records in electronic format*

Under current law, a physician, chiropractor, psychologist, podiatrist, dentist, physician assistant, advance practice nurse prescriber, hospital, or health service provider, upon request by an injured employee, employer, insurer, or DWD, must provide that person with any written material that is reasonably related to an injury for which the employee claims worker's compensation, upon payment of the actual cost of providing those materials, not to exceed the greater of 45 cents per page or \$7.50 per request, plus the actual costs of postage.

This bill permits that material to be provided in electronic format upon payment of \$26 per request.

##### *Final practitioner's report*

Under current law, if an injured employee has a period of temporary disability of more than three weeks or a permanent disability, has undergone surgery to treat an injury, other than surgery to correct a hernia, or sustains an eye injury requiring medical treatment on three or more occasions off the employer's premises, the

employer or insurer must submit to DWD a final treating practitioner's report. Current law, however, prohibits DWD from requiring submission of that report when the employer or insurer denies the employee's claim for compensation and the employee does not contest that denial. This bill limits that prohibition to cases in which the employer or insurer denies the employee's claim for compensation *in its entirety*.

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### ***Prospective vocational rehabilitation training orders***

Under current law, any party in interest may submit to DWD any controversy concerning worker's compensation and DWD, after hearing, must issue an order determining the rights of the parties regarding the controversy. Current law also permits DWD to issue interlocutory, *i.e.*, nonfinal, findings, orders, and awards, which may be enforced in the same manner as final awards. Current law specifically permits DWD to include in an interlocutory or final award or order an order directing the employer or insurer to pay for any future treatment that may be necessary to cure and relieve an injured employee from the effects of the employee's injury.

This bill permits DWD to include in an interlocutory or final award or order an order directing the employer or insurer to pay for a future course of instruction or other rehabilitation training services provided under a rehabilitation training program.

### ***Administrative review of a worker's compensation decision***

Under current law, a party to a worker's compensation proceeding may petition the Labor and Industry Review Commission (LIRC) for review of a DWD hearing examiner's decision awarding or denying worker's compensation (petition for review) if DWD or LIRC receives the petition for review within 21 days after DWD mailed a copy of the examiner's findings and order to the petitioner's last-known address. Currently, LIRC must dismiss a petition for review that is not timely filed

unless the petitioner shows probable good cause that the reason for failure to timely file the petition was beyond the petitioner's control. This bill requires a party to file a petition for review with LIRC, not DWD. The bill also requires LIRC to dismiss a petition for review that is not filed within those 21 days unless the petitioner shows that the petition was filed late for a reason that was beyond the petitioner's control.

Under current law, within 28 days after a decision of LIRC is mailed to the last-known address of each party to a worker's compensation proceeding, LIRC may, on its own motion, set aside the decision for further consideration. This bill permits LIRC to set aside a decision within 28 days after the date of the decision, not the date of its mailing.