

SENATE BILL No. 423

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-3-3-13.

Synopsis: Second injury fund compensation. Provides that worker's compensation awarded or renewed from the second injury fund for total and permanent disability shall be increased by 10% after June 30, 1998, and before July 1, 1999, and shall be adjusted by the cost of living after June 30, 1999.

Effective: July 1, 1998.

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January 13, 1998, read first time and referred to Committee on Pensions and Labor.

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Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 423

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-3-3-13 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 13. (a) If an employee
3 who from any cause, had lost, or lost the use of, one (1) hand, one (1)
4 arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent
5 industrial accident becomes permanently and totally impaired by
6 reason of the loss, or loss of use of, another such member or eye, the
7 employer shall be liable only for the compensation payable for such
8 second injury. However, in addition to such compensation and after the
9 completion of the payment therefor, the employee shall be paid the
10 remainder of the compensation that would be due for such total
11 permanent impairment out of a special fund known as the second injury
12 fund, and created in the manner described in subsection (b).

13 (b) Every insurance carrier insuring employers who are or may be
14 liable under this article to pay compensation for personal injuries to or
15 death of their employees under this article and every employer carrying
16 the employer's own risk, shall, on or before April 10 of each year, pay
17 to the worker's compensation board for the benefit of said fund, a sum

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1 equal to one percent (1%) of the total amount of all worker's
 2 compensation paid to injured employees or their beneficiaries under
 3 IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the
 4 due date of such payment. If the amount to the credit of the second
 5 injury fund as of April 1 of any year exceeds five hundred thousand
 6 dollars (\$500,000), the payments of one percent (1%) shall not be
 7 assessed or collected during the ensuing year. But when on April 1 of
 8 any year the amount to the credit of the fund is less than five hundred
 9 thousand dollars (\$500,000), the payments of one percent (1%) of the
 10 total amount of all worker's compensation paid to injured employees or
 11 their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar
 12 year next preceding that date shall be resumed and paid into such fund.

13 (c) The sums shall be paid by the worker's compensation board to
 14 the treasurer of state, to be deposited in a special account known as the
 15 second injury fund. The funds are not a part of the general fund of the
 16 state. Any balance remaining in the account at the end of any fiscal
 17 year shall not revert to the general fund. The funds shall be used only
 18 for the payment of awards of compensation and expense of medical
 19 examinations or treatment made and ordered by the board and
 20 chargeable against the fund pursuant to this section, and shall be paid
 21 for that purpose by the treasurer of state upon award or order of the
 22 board.

23 (d) If an employee who is entitled to compensation under IC 22-3-2
 24 through IC 22-3-6 either:

- 25 (1) exhausts the maximum benefits under section 22 of this
 26 chapter without having received the full amount of award granted
 27 to the employee under section 10 of this chapter; or
 28 (2) exhausts the employee's benefits under section 10 of this
 29 chapter;

30 then such employee may apply to the worker's compensation board,
 31 who may award the employee compensation from the second injury
 32 fund established by this section, as follows under subsection (e).

33 (e) **Except as provided in subsection (g)**, an employee who has
 34 exhausted the employee's maximum benefits under section 10 of this
 35 chapter may be awarded additional compensation equal to sixty-six and
 36 two-thirds percent (66 2/3%) of the employee's average weekly wage
 37 at the time of the employee's injury, not to exceed the maximum then
 38 applicable under section 22 of this chapter, for a period of not to
 39 exceed one hundred fifty (150) weeks upon competent evidence
 40 sufficient to establish:

- 41 (1) that the employee is totally and permanently disabled from
 42 causes and conditions of which there are or have been objective



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1 conditions and symptoms proven that are not within the physical
2 or mental control of the employee; and

3 (2) that the employee is unable to support the employee in any
4 gainful employment, not associated with rehabilitative or
5 vocational therapy.

6 (f) The additional award may be renewed during the employee's
7 total and permanent disability after appropriate hearings by the
8 worker's compensation board for successive periods not to exceed one
9 hundred fifty (150) weeks each. The provisions of this section apply
10 only to injuries occurring subsequent to April 1, 1950, for which
11 awards have been or are in the future made by the worker's
12 compensation board under section 10 of this chapter. Section 16 of this
13 chapter does not apply to compensation awarded from the second
14 injury fund under this section.

15 **(g) After June 30, 1998, and before July 1, 1999, the amount of**
16 **the compensation awarded to an employee under subsection (e) or**
17 **renewed under subsection (f) shall be increased by ten percent**
18 **(10%). After June 30, 1999, the amount of the compensation**
19 **awarded to an employee under subsection (e) or renewed under**
20 **subsection (f) shall be adjusted annually by the percent change in**
21 **the Consumer Price Index for All Urban Consumers for**
22 **Illinois-Indiana-Wisconsin prepared by the United States**
23 **Department of Labor for the preceding calendar year.**

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