

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 576

Citations Affected: IC 22-3.

Synopsis: Worker's compensation. Conference committee report for ESB 576. Requires that all members of the worker's compensation board (board) be attorneys in good standing admitted to the practice of law in Indiana. Renames the position of executive secretary executive administrator. Requires a health care provider to file a claim for payment with the board not later than two years after the provider receives an initial written communication from an employer, the employer's insurance carrier, or an agent acting on behalf of the employer in response to the provider's submission of a bill for services. Requires a hospital or facility that is a medical service provider to pay a \$60 filing fee for each application filed in a balance billing case. Provides that a filing fee is not required for an application filed for a denied or unpaid claim. Allows a provider to combine up to 10 individual claims into one application whenever all of the individual claims involve the same employer, insurance carrier, or billing review service, and the amount of each individual claim does not exceed \$200. Allows the second injury fund to be used to pay certain fund liabilities. Authorizes the board to resolve claims using mediation. Requires an employer to provide a copy of an injury or disablement report to the board upon request. Requires an injury or disablement report within seven days after the first day of a disability arising from a work place injury or disablement by occupational disease (rather than the occurrence of the injury or disablement). Increases civil penalties for failure to: (1) post certain notices; (2) file certain records; or (3) comply with IC 22-3-3-7 or IC 22-3-7-16 (concerning the determination and payment of compensation or benefits). Permits the board to request evidence of worker's compensation and occupational diseases compensation coverage from an employer. Establishes a civil penalty of \$50 per employee per day for an employer's failure to provide proof of coverage. Requires the board to waive a civil penalty assessed whenever an employer provides proof of coverage by the twentieth day after the board provides written notice of the employer's failure to provide evidence of the coverage. Allows the board, after notice and a hearing, to post on the board's web site the name of an employer who fails or refuses to provide proof of coverage or pay a civil penalty assessed for the failure or refusal to provide coverage. Provides that an employer's name may not be removed from the board's web site until the employer provides proof of coverage and pays the civil penalties assessed. Requires that civil penalties be deposited in the worker's compensation supplemental administrative fund, instead of the state general fund.

Increases criminal penalties for an employer's failure to insure or otherwise provide adequate security for the employer's worker's compensation and occupational disease liabilities and for violating any other worker's compensation or occupational disease laws. Provides that a court may temporarily order an employer that fails or refuses to pay worker's compensation or occupational disease benefits when due to cease doing business until the employer furnishes to the board proof of insurance or other assurances to establish that the employer has the ability to meet all worker's compensation and occupational disease liabilities. Allows the owner of a sole proprietorship who is an independent contractor and does not elect worker's compensation and occupational disease coverage to obtain a certification of exemption. Urges the legislative council to assign to the pension management oversight commission (commission) the task of studying whether to increase the benefit schedules for worker's compensation and occupational disease compensation. Urges the legislative council to assign to the commission or another committee the task of studying whether to amend the definition of "pecuniary liability" to establish the charge for services or products provided by a medical services facility as equal to a percentage determined using the Medicare program reimbursement methodologies, models, and values or weights, including the coding, billing, and reporting payment polices in effect on the date a service or product is provided. Requires, if the commission or another committee is assigned the topics, that the commission or committee issue a final report containing the commission's or committee's findings and recommendations, including any recommended legislation, not later than November 1, 2011. Makes conforming and technical corrections. **(This conference committee report: (1) rewords a provision that allows the assessment of a civil penalty for failure to comply with IC 22-3-3-7 or IC 22-3-7-16; (2) adds a definition for "medical services facility" from HB 1485; (3) allows the legislative council to select the committee to assign the study of whether to amend the definition of "pecuniary liability" as applied to the charges of a medical services facility; and (4) removes a provision urging the legislative council to assign to the pension management oversight commission whether to change the statute of limitations for making a claim for occupational disease compensation.)**

Effective: Upon passage; July 1, 2011.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 576 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 22-3-1-1, AS AMENDED BY P.L.134-2006,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2011]: Sec. 1. (a) There is hereby created the worker's
5 compensation board of Indiana, which shall consist of seven (7)
6 members, not more than four (4) of whom shall belong to the same
7 political party, appointed by the governor, one (1) of whom the
8 governor shall designate as chairman. ~~The chairman of said~~ **All**
9 **members of the** board shall be ~~an attorney of recognized~~
10 ~~qualifications:~~ **attorneys in good standing admitted to the practice**
11 **of law in Indiana.**
12 (b) Each member of said board shall hold office for four (4) years
13 and until the member's successor is appointed and qualified.
14 (c) No member of the board shall hold any other position of trust or
15 profit or engage in any occupation or business interfering with or
16 inconsistent with the discharge of the member's duties.
17 (d) Any member of said board may be removed by the governor at
18 any time for incompetency, neglect of duty, misconduct in office, or
19 other good cause to be stated in writing in the order of removal. In case
20 of a vacancy in the membership of the said board, the governor shall
21 appoint for the unexpired term.

1 (e) The budget agency, with the approval of the governor, shall
2 approve the salaries of the members of the board and the secretary.

3 (f) The board may appoint a ~~secretary~~ **an executive administrator**
4 and may remove ~~such secretary~~ **the executive administrator**. The
5 **secretary executive administrator** shall have authority to administer
6 oaths and issue subpoenas in connection with the administration of
7 IC 22-3-2 through IC 22-3-7.

8 (g) The board, subject to the approval of the governor, may employ
9 and fix the compensations of such clerical and other assistants as it may
10 deem necessary.

11 (h) The members of the board and its assistants shall be entitled to
12 receive from the state their actual and necessary expenses while
13 traveling on the business of the board, but such expenses shall be
14 approved by the chairman of the board before payment is made.

15 (i) All salaries and expenses of the board shall be audited and paid
16 out of the state treasury in the manner prescribed for similar expenses
17 in other departments or branches of the state service.

18 SECTION 2. IC 22-3-2-22 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 22. (a) Each employer
20 subject to IC 22-3-2 through IC 22-3-6 shall post a notice in the
21 employer's place of business to inform the employees that their
22 employment is covered by worker's compensation. The notice must also
23 contain the name, address, and telephone number of the employer's
24 insurance carrier or the person responsible for administering the
25 employer's worker's compensation claims if the employer is self
26 insured.

27 (b) The notice required under this section must be in a form
28 approved by the board and shall be posted at a conspicuous location at
29 the employer's place of business to provide reasonable notice to all
30 employees. If the employer is required by federal law or regulation to
31 post a notice for the employer's employees, the notice required under
32 this section must be posted in the same location or locations where the
33 notice required by federal law or regulation is posted.

34 (c) An employer who fails to comply with this section is subject to
35 a civil penalty of ~~fifty dollars (\$50)~~; ~~to be assessed and collected by the~~
36 ~~board. Civil penalties collected under this section shall be deposited in~~
37 ~~the state general fund.~~ **under IC 22-3-4-15.**

38 SECTION 3. IC 22-3-3-5 IS AMENDED TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The pecuniary liability of the
40 employer for medical, surgical, hospital and nurse service herein
41 required shall be limited to such charges as prevail as provided under
42 IC 22-3-6-1(j), in the same community (as defined in IC 22-3-6-1(h))
43 for a like service or product to injured persons.

44 (b) The employee and the employee's estate do not have liability to
45 a health care provider for payment for services obtained under
46 IC 22-3-3-4.

47 (c) The right to order payment for all services provided under
48 IC 22-3-2 through IC 22-3-6 is solely with the board.

49 (d) All claims by a health care provider for payment for services are
50 against the employer and the employer's insurance carrier, if any, and
51 must be made with the board under IC 22-3-2 through IC 22-3-6. **After**

1 **June 30, 2011, a health care provider must file an application for**
 2 **adjustment of a claim for a health care provider's fee with the**
 3 **board not later than two (2) years after the receipt of an initial**
 4 **written communication from the employer, the employer's**
 5 **insurance carrier, if any, or an agent acting on behalf of the**
 6 **employer after the health care provider submits a bill for services.**
 7 **To offset a part of the board's expenses related to the**
 8 **administration of health care provider reimbursement disputes, a**
 9 **hospital or facility that is a medical service provider (as defined in**
 10 **IC 22-3-6-1) shall pay a filing fee of sixty dollars (\$60) in a balance**
 11 **billing case. The filing fee must accompany each application filed**
 12 **with the board. If an employer, an employer's insurance carrier,**
 13 **or an agent acting on behalf of the employer denies or fails to pay**
 14 **any amount on a claim submitted by a hospital or facility that is a**
 15 **medical service provider, a filing fee is not required to accompany**
 16 **an application that is filed for the denied or unpaid claim. A health**
 17 **care provider may combine up to ten (10) individual claims into**
 18 **one (1) application whenever:**

19 **(1) all individual claims involve the same employer, insurance**
 20 **carrier, or billing review service; and**

21 **(2) the amount of each individual claim does not exceed two**
 22 **hundred dollars (\$200).**

23 **(e) The worker's compensation board may withhold the approval of**
 24 **the fees of the attending physician in a case until the attending**
 25 **physician files a report with the worker's compensation board on the**
 26 **form prescribed by the board.**

27 **SECTION 4. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS**
 28 **[EFFECTIVE JULY 1, 2011]: Sec. 7. (a) Compensation shall be**
 29 **allowed on account of injuries producing only temporary total disability**
 30 **to work or temporary partial disability to work beginning with the**
 31 **eight (8~~th~~) day of such disability except for medical benefits provided**
 32 **in section 4 of the chapter. Compensation shall be allowed for the first**
 33 **seven (7) calendar days only if the disability continues for longer than**
 34 **twenty-one (21) days.**

35 **(b) The first weekly installment of compensation for temporary**
 36 **disability is due fourteen (14) days after the disability begins. Not later**
 37 **than fifteen (15) days from the date that the first installment of**
 38 **compensation is due, the employer or the employer's insurance carrier**
 39 **shall tender to the employee or to the employee's dependents, with all**
 40 **compensation due, a properly prepared compensation agreement in a**
 41 **form prescribed by the board. Whenever an employer or the employer's**
 42 **insurance carrier denies or is not able to determine liability to pay**
 43 **compensation or benefits, the employer or the employer's insurance**
 44 **carrier shall notify the worker's compensation board and the employee**
 45 **in writing on a form prescribed by the worker's compensation board not**
 46 **later than thirty (30) days after the employer's knowledge of the**
 47 **claimed injury. If a determination of liability cannot be made within**
 48 **thirty (30) days, the worker's compensation board may approve an**
 49 **additional thirty (30) days upon a written request of the employer or the**
 50 **employer's insurance carrier that sets forth the reasons that the**
 51 **determination could not be made within thirty (30) days and states the**

1 facts or circumstances that are necessary to determine liability within
 2 the additional thirty (30) days. More than thirty (30) days of additional
 3 time may be approved by the worker's compensation board upon the
 4 filing of a petition by the employer or the employer's insurance carrier
 5 that sets forth:

- 6 (1) the extraordinary circumstances that have precluded a
 7 determination of liability within the initial sixty (60) days;
- 8 (2) the status of the investigation on the date the petition is filed;
- 9 (3) the facts or circumstances that are necessary to make a
 10 determination; and
- 11 (4) a timetable for the completion of the remaining investigation.

12 An employer who fails to comply with this section is subject to a civil
 13 penalty of fifty dollars (\$50), to be assessed and collected by the board
 14 upon notice and hearing. ~~Civil penalties collected under this section~~
 15 ~~shall be deposited in the state general fund. under IC 22-3-4-15.~~

16 (c) Once begun, temporary total disability benefits may not be
 17 terminated by the employer unless:

- 18 (1) the employee has returned to any employment;
- 19 (2) the employee has died;
- 20 (3) the employee has refused to undergo a medical examination
 21 under section 6 of this chapter or has refused to accept suitable
 22 employment under section 11 of this chapter;
- 23 (4) the employee has received five hundred (500) weeks of
 24 temporary total disability benefits or has been paid the maximum
 25 compensation allowed under section 22 of this chapter; or
- 26 (5) the employee is unable or unavailable to work for reasons
 27 unrelated to the compensable injury.

28 In all other cases the employer must notify the employee in writing of
 29 the employer's intent to terminate the payment of temporary total
 30 disability benefits and of the availability of employment, if any, on a
 31 form approved by the board. If the employee disagrees with the
 32 proposed termination, the employee must give written notice of
 33 disagreement to the board and the employer within seven (7) days after
 34 receipt of the notice of intent to terminate benefits. If the board and
 35 employer do not receive a notice of disagreement under this section,
 36 the employee's temporary total disability benefits shall be terminated.
 37 Upon receipt of the notice of disagreement, the board shall immediately
 38 contact the parties, which may be by telephone or other means, and
 39 attempt to resolve the disagreement. If the board is unable to resolve
 40 the disagreement within ten (10) days of receipt of the notice of
 41 disagreement, the board shall immediately arrange for an evaluation of
 42 the employee by an independent medical examiner. The independent
 43 medical examiner shall be selected by mutual agreement of the parties
 44 or, if the parties are unable to agree, appointed by the board under
 45 IC 22-3-4-11. If the independent medical examiner determines that the
 46 employee is no longer temporarily disabled or is still temporarily
 47 disabled but can return to employment that the employer has made
 48 available to the employee, or if the employee fails or refuses to appear
 49 for examination by the independent medical examiner, temporary total
 50 disability benefits may be terminated. If either party disagrees with the
 51 opinion of the independent medical examiner, the party shall apply to

1 the board for a hearing under IC 22-3-4-5.

2 (d) An employer is not required to continue the payment of
3 temporary total disability benefits for more than fourteen (14) days
4 after the employer's proposed termination date unless the independent
5 medical examiner determines that the employee is temporarily disabled
6 and unable to return to any employment that the employer has made
7 available to the employee.

8 (e) If it is determined that as a result of this section temporary total
9 disability benefits were overpaid, the overpayment shall be deducted
10 from any benefits due the employee under section 10 of this chapter
11 and, if there are no benefits due the employee or the benefits due the
12 employee do not equal the amount of the overpayment, the employee
13 shall be responsible for paying any overpayment which cannot be
14 deducted from benefits due the employee.

15 SECTION 5. IC 22-3-3-13, AS AMENDED BY P.L.67-2010,
16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 UPON PASSAGE]: Sec. 13. (a) As used in this section, "board" refers
18 to the worker's compensation board created under IC 22-3-1-1.

19 (b) If an employee who from any cause, had lost, or lost the use of,
20 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and
21 in a subsequent industrial accident becomes permanently and totally
22 disabled by reason of the loss, or loss of use of, another such member
23 or eye, the employer shall be liable only for the compensation payable
24 for such second injury. However, in addition to such compensation and
25 after the completion of the payment therefor, the employee shall be
26 paid the remainder of the compensation that would be due for such
27 total permanent disability out of a special fund known as the second
28 injury fund, and created in the manner described in subsection (c).

29 (c) Whenever the board determines under the procedures set forth
30 in subsection (d) that an assessment is necessary to ensure that fund
31 beneficiaries, including applicants under section 4(f) of this chapter,
32 continue to receive compensation in a timely manner for a reasonable
33 prospective period, the board shall send notice not later than November
34 1 in any year to:

35 (1) all insurance carriers and other entities insuring or providing
36 coverage to employers who are or may be liable under this article
37 to pay compensation for personal injuries to or the death of their
38 employees under this article; and

39 (2) each employer carrying the employer's own risk;

40 stating that an assessment is necessary. Not later than January 31 of the
41 following year, each entity identified in subdivisions (1) and (2) shall
42 send to the board a statement of total paid losses and premiums (as
43 defined in subsection (d)(4)) paid by employers during the previous
44 calendar year. The board may conduct an assessment under this
45 subsection not more than one (1) time annually. The total amount of the
46 assessment may not exceed two and one-half percent (2.5%) of the total
47 amount of all worker's compensation paid to injured employees or their
48 beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year
49 next preceding the due date of such payment. The board shall assess a
50 penalty in the amount of ten percent (10%) of the amount owed if
51 payment is not made under this section within thirty (30) days from the

1 date set by the board. If the amount to the credit of the second injury
 2 fund on or before November 1 of any year exceeds one hundred
 3 thirty-five percent (135%) of the previous year's disbursements, the
 4 assessment allowed under this subsection shall not be assessed or
 5 collected during the ensuing year. But when on or before November 1
 6 of any year the amount to the credit of the fund is less than one hundred
 7 thirty-five percent (135%) of the previous year's disbursements, the
 8 payments of not more than two and one-half percent (2.5%) of the total
 9 amount of all worker's compensation paid to injured employees or their
 10 beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year
 11 next preceding that date shall be resumed and paid into the fund. The
 12 board may not use an assessment rate greater than twenty-five
 13 hundredths of one percent (0.25%) above the amount recommended by
 14 the study performed before the assessment.

15 (d) The board shall assess all employers for the liabilities, including
 16 administrative expenses, of the second injury fund. The assessment
 17 also must provide for the repayment of all loans made to the second
 18 injury fund for the purpose of paying valid claims. The following
 19 applies to assessments under this subsection:

20 (1) The portion of the total amount that must be collected from
 21 self-insured employers equals:

22 (A) the total amount of the assessment as determined by the
 23 board; multiplied by

24 (B) the quotient of:

25 (i) the total paid losses on behalf of all self-insured
 26 employers during the preceding calendar year; divided by

27 (ii) the total paid losses on behalf of all self-insured
 28 employers and insured employers during the preceding
 29 calendar year.

30 (2) The portion of the total amount that must be collected from
 31 insured employers equals:

32 (A) the total amount of the assessment as determined by the
 33 board; multiplied by

34 (B) the quotient of:

35 (i) the total paid losses on behalf of all insured employers
 36 during the preceding calendar year; divided by

37 (ii) the total paid losses on behalf of all self-insured
 38 employers and insured employers during the preceding
 39 calendar year.

40 (3) The total amount of insured employer assessments under
 41 subdivision (2) must be ~~be~~ collected by the insured employers'
 42 worker's compensation insurers. The amount of employer
 43 assessments each insurer shall collect equals:

44 (A) the total amount of assessments allocated to insured
 45 employers under subdivision (2); multiplied by

46 (B) the quotient of:

47 (i) the worker's compensation premiums paid by employers
 48 to the carrier during the preceding calendar year; divided by

49 (ii) the worker's compensation premiums paid by employers
 50 to all carriers during the preceding calendar year.

51 (4) For purposes of the computation made under subdivision (3),

- 1 "premium" means the direct written premium.
- 2 (5) The amount of the assessment for each self-insured employer
- 3 equals:
- 4 (A) the total amount of assessments allocated to self-insured
- 5 employers under subdivision (1); multiplied by
- 6 (B) the quotient of:
- 7 (i) the paid losses attributable to the self-insured employer
- 8 during the preceding calendar year; divided by
- 9 (ii) paid losses attributable to all self-insured employers
- 10 during the preceding calendar year.
- 11 An employer that has ceased to be a self-insurer continues to be liable
- 12 for prorated assessments based on paid losses made by the employer in
- 13 the preceding calendar year during the period that the employer was
- 14 self-insured.
- 15 (e) The board may employ a qualified employee or enter into a
- 16 contract with an actuary or another qualified firm that has experience
- 17 in calculating worker's compensation liabilities. Not later than
- 18 December 1 of each year, the actuary or other qualified firm shall
- 19 calculate the recommended funding level of the fund and inform the
- 20 board of the results of the calculation. If the amount to the credit of the
- 21 fund is less than the amount required under subsection (c), the board
- 22 may conduct an assessment under subsection (c). The board shall pay
- 23 the costs of the contract under this subsection with money in the fund.
- 24 (f) An assessment collected under subsection (c) on an employer
- 25 who is not self-insured must be assessed through a surcharge based on
- 26 the employer's premium. An assessment collected under subsection (c)
- 27 does not constitute an element of loss, but for the purpose of collection
- 28 shall be treated as a separate cost imposed upon insured employers. A
- 29 premium surcharge under this subsection must be collected at the same
- 30 time and in the same manner in which the premium for coverage is
- 31 collected, and must be shown as a separate amount on a premium
- 32 statement. A premium surcharge under this subsection must be
- 33 excluded from the definition of premium for all purposes, including the
- 34 computation of insurance producer commissions or premium taxes.
- 35 However, an insurer may cancel a worker's compensation policy for
- 36 nonpayment of the premium surcharge. A cancellation under this
- 37 subsection must be carried out under the statutes applicable to the
- 38 nonpayment of premiums.
- 39 (g) The sums shall be paid by the board to the treasurer of state, to
- 40 be deposited in a special account known as the second injury fund. The
- 41 funds are not a part of the general fund of the state. Any balance
- 42 remaining in the account at the end of any fiscal year shall not revert
- 43 to the general fund. The funds shall be used only for the payment of
- 44 **fund liabilities described in subsection (d) and** awards of
- 45 compensation ordered by the board and chargeable against the fund
- 46 pursuant to this section, and shall be paid for that purpose by the
- 47 treasurer of state upon award or order of the board.
- 48 (h) If an employee who is entitled to compensation under IC 22-3-2
- 49 through IC 22-3-6 either:
- 50 (1) exhausts the maximum benefits under section 22 of this
- 51 chapter without having received the full amount of award granted

1 to the employee under section 10 of this chapter; or
2 (2) exhausts the employee's benefits under section 10 of this
3 chapter;

4 then such employee may apply to the board, who may award the
5 employee compensation from the second injury fund established by this
6 section, as follows under subsection (i).

7 (i) An employee who has exhausted the employee's maximum
8 benefits under section 10 of this chapter may be awarded additional
9 compensation equal to sixty-six and two-thirds percent (66 2/3%) of the
10 employee's average weekly wage at the time of the employee's injury,
11 not to exceed the maximum then applicable under section 22 of this
12 chapter, for a period of not to exceed one hundred fifty (150) weeks
13 upon competent evidence sufficient to establish:

14 (1) that the employee is totally and permanently disabled from
15 causes and conditions of which there are or have been objective
16 conditions and symptoms proven that are not within the physical
17 or mental control of the employee; and

18 (2) that the employee is unable to support the employee in any
19 gainful employment, not associated with rehabilitative or
20 vocational therapy.

21 (j) The additional award may be renewed during the employee's total
22 and permanent disability after appropriate hearings by the board for
23 successive periods not to exceed one hundred fifty (150) weeks each.
24 The provisions of this section apply only to injuries occurring
25 subsequent to April 1, 1950, for which awards have been or are in the
26 future made by the board under section 10 of this chapter. Section 16
27 of this chapter does not apply to compensation awarded from the
28 second injury fund under this section.

29 (k) All insurance carriers subject to an assessment under this section
30 are required to provide to the board:

31 (1) not later than January 31 each calendar year; and

32 (2) not later than thirty (30) days after a change occurs;

33 the name, address, and electronic mail address of a representative
34 authorized to receive the notice of an assessment.

35 SECTION 6. IC 22-3-4-4.5 IS ADDED TO THE INDIANA CODE
36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
37 1, 2011]: **Sec. 4.5. (a) In addition to any other method available to
38 the board to resolve a claim for compensation under IC 22-3-2
39 through IC 22-3-7, the board may, with the consent of all parties,
40 mediate the claim using a mediator certified by the Indiana
41 Continuing Legal Education Forum. The board may not order the
42 mediation of a claim without the consent of all parties.**

43 **(b) The board shall establish by rule a schedule of fees and
44 charges for a mediation conducted to resolve a claim for
45 compensation under IC 22-3-2 through IC 22-3-7.**

46 SECTION 7. IC 22-3-4-13, AS AMENDED BY P.L.1-2010,
47 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
48 JULY 1, 2011]: **Sec. 13. (a) Every employer shall keep a record of all
49 injuries, fatal or otherwise, received by or claimed to have been
50 received by the employer's employees in the course of their
51 employment and shall provide a copy of the record to the board**

1 **upon request.** Within seven (7) days after the ~~occurrence~~ **first day of**
 2 **a disability that arises from a workplace injury and the employer's**
 3 knowledge thereof, ~~of the disability,~~ as provided in IC 22-3-3-1, ~~of any~~
 4 **injury to an employee causing and that causes an employee's** death
 5 or absence from work for more than one (1) day, a report thereof shall
 6 be made in writing and mailed to the employer's insurance carrier or,
 7 if the employer is self insured, delivered to the worker's compensation
 8 board in the manner provided in subsections (b) and (c). The insurance
 9 carrier shall deliver the report to the worker's compensation board in
 10 the manner provided in subsections (b) and (c) not later than seven (7)
 11 days after receipt of the report or fourteen (14) days after the
 12 employer's knowledge of the injury, whichever is later. An employer or
 13 insurance carrier that fails to comply with this subsection is subject to
 14 a civil penalty of fifty dollars (\$50); ~~to be assessed and collected by the~~
 15 ~~board. Civil penalties collected under this section shall be deposited in~~
 16 ~~the state general fund. under section 15 of this chapter.~~

17 (b) All insurance carriers, companies who carry risk without
 18 insurance, and third party administrators reporting accident information
 19 to the board in compliance with subsection (a) shall

- 20 ~~(1)~~ report the information using electronic data interchange
 21 standards prescribed by the board. ~~no later than June 30, 1999; or~~
 22 ~~(2) in the alternative; the reporting entity shall have an~~
 23 ~~implementation plan approved by the board no later than June 30,~~
 24 ~~2000; that provides for the ability to report the information using~~
 25 ~~electronic data interchange standards prescribed by the board no~~
 26 ~~later than December 31, 2000.~~

27 ~~Prior to the June 30, 2000; and December 31, 2000; deadlines; the~~
 28 ~~reporting entity may continue to report accidents to the board by mail~~
 29 ~~in compliance with subsection (a):~~

30 (c) The report shall contain the name, nature, and location of the
 31 business of the employer, the name, age, sex, wages, occupation of the
 32 injured employee, the date and hour of the accident causing the alleged
 33 injury, the nature and cause of the injury, and such other information
 34 as may be required by the board.

35 (d) A person who violates any provision of this article, except
 36 IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c), commits a Class C
 37 ~~infraction: misdemeanor.~~ A person who violates IC 22-3-5-1,
 38 IC 22-3-7-34(b), or IC 22-3-7-34(c) commits a Class A ~~infraction:~~
 39 **misdemeanor.** The worker's compensation board in the name of the
 40 state may seek relief from any court of competent jurisdiction to enjoin
 41 any violation of this article.

42 (e) The venue of all actions under this section lies in the county in
 43 which the employee was injured. The prosecuting attorney of the
 44 county shall prosecute all such violations upon written request of the
 45 worker's compensation board. Such violations shall be prosecuted in
 46 the name of the state.

47 (f) In an action before the board against an employer who at the time
 48 of the injury to or occupational disease of an employee had failed to
 49 comply with IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c), the
 50 board may award to the employee or the dependents of a deceased
 51 employee:

- 1 (1) compensation not to exceed double the compensation
 2 provided by this article;
 3 (2) medical expenses; and
 4 (3) reasonable attorney fees in addition to the compensation and
 5 medical expenses.

6 (g) In an action under subsection (d), the court may:

- 7 (1) ~~order require~~ the employer to ~~cease doing business in Indiana~~
 8 ~~until the employer furnishes~~ **obtain coverage and furnish** proof
 9 of insurance as required by IC 22-3-5-1 and IC 22-3-7-34(b) or
 10 IC 22-3-7-34(c) **every six (6) months for a period not to exceed**
 11 **three (3) years;**
 12 (2) require satisfactory proof of the employer's financial ability to
 13 pay any compensation or medical expenses in the amount and
 14 manner, and when due, as provided for in IC 22-3, for ~~any~~ **all**
 15 injuries which occurred during any period of noncompliance; and
 16 (3) require the employer to deposit with the worker's
 17 compensation board an acceptable security, indemnity, or bond to
 18 secure the payment of such compensation and medical expense
 19 liabilities.

20 (h) The penalty ~~provisions~~ **provision** of subsection (d) shall apply
 21 only to the employer and shall not apply for a failure to exact a
 22 certificate of insurance under IC 22-3-2-14 or IC 22-3-7-34(i) or
 23 IC 22-3-7-34(j).

24 (i) **In an action under subsection (d), if a compensable worker's**
 25 **compensation or occupational disease claim has been filed and the**
 26 **employer fails or refuses to pay benefits when due, a court may**
 27 **order the employer to temporarily cease doing business in Indiana**
 28 **until the employer:**

- 29 (1) **furnishes proof of insurance as required by IC 22-3-5-1**
 30 **and IC 22-3-7-34(b) or IC 22-3-7-34(c); and**
 31 (2) **provides any other assurances required by the board to**
 32 **establish that the employer has the ability to meet all worker's**
 33 **compensation liabilities incurred during the employer's**
 34 **period of noncompliance.**

35 (j) **An appeal of the court's decision under subsection (i) to**
 36 **enjoin the employer from doing business in Indiana automatically**
 37 **stays the court's order.**

38 SECTION 8. IC 22-3-4-15 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2011]: **Sec. 15. (a) In addition to any other remedy available to**
 41 **the board under this article or at law, the board may, after notice**
 42 **and a hearing, assess a civil penalty under this section for any of**
 43 **the following:**

- 44 (1) **Failure to post a notice required by IC 22-3-2-22.**
 45 (2) **Failure to comply with IC 22-3-3-7 or IC 22-3-7-16.**
 46 (3) **Failure to file an injury record with the board as required**
 47 **by section 13 of this chapter or to file a report of a**
 48 **disablement by occupational disease as required by**
 49 **IC 22-3-7-37.**

50 (b) **For the first violation of an offense listed in subsection (a),**
 51 **the board may assess a civil penalty not to exceed fifty dollars**

1 **(\$50).**

2 **(c) For the second unrelated violation of the same offense listed**
 3 **in subsection (a), the board may assess a civil penalty not to exceed**
 4 **one hundred fifty dollars (\$150).**

5 **(d) For the third or subsequent unrelated violation of the same**
 6 **offense listed in subsection (a), the board may assess a civil penalty**
 7 **not to exceed three hundred dollars (\$300).**

8 **(e) Civil penalties collected under this section shall be deposited**
 9 **in the worker's compensation supplemental administrative fund**
 10 **established by IC 22-3-5-6.**

11 SECTION 9. IC 22-3-5-2.5 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2011]: **Sec. 2.5. (a) The worker's compensation board is entitled**
 14 **to request that an employer provide the board with current proof**
 15 **of compliance with section 2 of this chapter.**

16 **(b) If an employer fails or refuses to provide current proof of**
 17 **compliance by the tenth day after the employer receives the**
 18 **board's request under subsection (a), the board:**

19 **(1) shall send the employer a written notice that the employer**
 20 **is in violation of section 2 of this chapter; and**

21 **(2) may assess a civil penalty against the employer of fifty**
 22 **dollars (\$50) per employee per day.**

23 **(c) An employer may challenge the board's assessment of a civil**
 24 **penalty under subsection (b)(2) by requesting a hearing in**
 25 **accordance with procedures established by the board.**

26 **(d) The board shall waive a civil penalty assessed under**
 27 **subsection (b)(2) if the employer provides the board current proof**
 28 **of compliance by the twentieth day after the date the employer**
 29 **receives the board's notice under subsection (b)(1).**

30 **(e) If an employer fails or refuses to:**

31 **(1) provide current proof of compliance by the twentieth day**
 32 **after the date the employer receives the board's notice under**
 33 **subsection (b)(1); or**

34 **(2) pay a civil penalty assessed under subsection (b)(2);**
 35 **the board may, after notice to the employer and a hearing, order**
 36 **that the noncompliant employer's name be listed on the board's**
 37 **Internet web site.**

38 **(f) A noncompliant employer's name may be removed from the**
 39 **board's Internet web site only after the employer does the**
 40 **following:**

41 **(1) Provides current proof of compliance with section 2 of this**
 42 **chapter.**

43 **(2) Pays all civil penalties assessed under subsection (b)(2).**

44 **(g) The civil penalties provided for in this section are**
 45 **cumulative.**

46 **(h) Civil penalties collected under this section shall be deposited**
 47 **in the worker's compensation supplemental administrative fund**
 48 **established by section 6 of this chapter.**

49 SECTION 10. IC 22-3-5-6 IS AMENDED TO READ AS
 50 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 6. (a) The worker's**
 51 **compensation supplemental administrative fund is established for the**

1 purpose of carrying out the administrative purposes and functions of
2 the worker's compensation board.

3 (b) The fund consists of:

4 (1) fees collected from employers under sections 1 through 2 of
5 this chapter; ~~and from~~

6 (2) fees collected under IC 22-3-2-14.5, **IC 22-3-3-5(d),**
7 **IC 22-3-7-17(g),** and IC 22-3-7-34.5; **and**

8 (3) **civil penalties assessed under IC 22-3-4-15, section 2.5 of**
9 **this chapter, and IC 22-3-7-34.3.**

10 (c) The fund shall be administered by the worker's compensation
11 board. Money in the fund is annually appropriated to the worker's
12 compensation board and shall be used for all expenses incurred by the
13 worker's compensation board.

14 ~~(b)~~ (d) The money in the fund is not to be used to replace funds
15 otherwise appropriated to the board. Money in the fund at the end of
16 the state fiscal year does not revert to the state general fund.

17 SECTION 11. IC 22-3-6-1, AS AMENDED BY P.L.180-2009,
18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2011]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the
20 context otherwise requires:

21 (a) "Employer" includes the state and any political subdivision, any
22 municipal corporation within the state, any individual or the legal
23 representative of a deceased individual, firm, association, limited
24 liability company, or corporation or the receiver or trustee of the same,
25 using the services of another for pay. A parent corporation and its
26 subsidiaries shall each be considered joint employers of the
27 corporation's, the parent's, or the subsidiaries' employees for purposes
28 of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of
29 employees shall each be considered joint employers of the employees
30 provided by the lessor to the lessee for purposes of IC 22-3-2-6 and
31 IC 22-3-3-31. If the employer is insured, the term includes the
32 employer's insurer so far as applicable. However, the inclusion of an
33 employer's insurer within this definition does not allow an employer's
34 insurer to avoid payment for services rendered to an employee with the
35 approval of the employer. The term also includes an employer that
36 provides on-the-job training under the federal School to Work
37 Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in
38 IC 22-3-2-2.5. The term does not include a nonprofit corporation that
39 is recognized as tax exempt under Section 501(c)(3) of the Internal
40 Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the
41 corporation enters into an independent contractor agreement with a
42 person for the performance of youth coaching services on a part-time
43 basis.

44 (b) "Employee" means every person, including a minor, in the
45 service of another, under any contract of hire or apprenticeship, written
46 or implied, except one whose employment is both casual and not in the
47 usual course of the trade, business, occupation, or profession of the
48 employer.

49 (1) An executive officer elected or appointed and empowered in
50 accordance with the charter and bylaws of a corporation, other
51 than a municipal corporation or governmental subdivision or a

1 charitable, religious, educational, or other nonprofit corporation,
 2 is an employee of the corporation under IC 22-3-2 through
 3 IC 22-3-6. An officer of a corporation who is the sole officer of
 4 the corporation is an employee of the corporation under IC 22-3-2
 5 through IC 22-3-6, but may elect not to be an employee of the
 6 corporation under IC 22-3-2 through IC 22-3-6. If an officer
 7 makes this election, the officer must serve written notice of the
 8 election on the corporation's insurance carrier and the board. An
 9 officer of a corporation who is the sole officer of the corporation
 10 may not be considered to be excluded as an employee under
 11 IC 22-3-2 through IC 22-3-6 until the notice is received by the
 12 insurance carrier and the board.

13 (2) An executive officer of a municipal corporation or other
 14 governmental subdivision or of a charitable, religious,
 15 educational, or other nonprofit corporation may, notwithstanding
 16 any other provision of IC 22-3-2 through IC 22-3-6, be brought
 17 within the coverage of its insurance contract by the corporation by
 18 specifically including the executive officer in the contract of
 19 insurance. The election to bring the executive officer within the
 20 coverage shall continue for the period the contract of insurance is
 21 in effect, and during this period, the executive officers thus
 22 brought within the coverage of the insurance contract are
 23 employees of the corporation under IC 22-3-2 through IC 22-3-6.

24 (3) Any reference to an employee who has been injured, when the
 25 employee is dead, also includes the employee's legal
 26 representatives, dependents, and other persons to whom
 27 compensation may be payable.

28 (4) An owner of a sole proprietorship may elect to include the
 29 owner as an employee under IC 22-3-2 through IC 22-3-6 if the
 30 owner is actually engaged in the proprietorship business. If the
 31 owner makes this election, the owner must serve upon the owner's
 32 insurance carrier and upon the board written notice of the
 33 election. No owner of a sole proprietorship may be considered an
 34 employee under IC 22-3-2 through IC 22-3-6 until the notice has
 35 been received. If the owner of a sole proprietorship:

36 (A) is an independent contractor in the construction trades and
 37 does not make the election provided under this subdivision,
 38 the owner must obtain ~~an affidavit~~ **a certificate** of exemption
 39 under IC 22-3-2-14.5; or

40 **(B) is an independent contractor and does not make the**
 41 **election provided under this subdivision, the owner may**
 42 **obtain a certificate of exemption under IC 22-3-2-14.5.**

43 (5) A partner in a partnership may elect to include the partner as
 44 an employee under IC 22-3-2 through IC 22-3-6 if the partner is
 45 actually engaged in the partnership business. If a partner makes
 46 this election, the partner must serve upon the partner's insurance
 47 carrier and upon the board written notice of the election. No
 48 partner may be considered an employee under IC 22-3-2 through
 49 IC 22-3-6 until the notice has been received. If a partner in a
 50 partnership:

51 (A) is an independent contractor in the construction trades and

1 does not make the election provided under this subdivision,
 2 the partner must obtain ~~an affidavit~~ **a certificate** of exemption
 3 under IC 22-3-2-14.5; **or**

4 **(B) is an independent contractor and does not make the**
 5 **election provided under this subdivision, the partner may**
 6 **obtain a certificate of exemption under IC 22-3-2-14.5.**

7 (6) Real estate professionals are not employees under IC 22-3-2
 8 through IC 22-3-6 if:

9 (A) they are licensed real estate agents;

10 (B) substantially all their remuneration is directly related to
 11 sales volume and not the number of hours worked; and

12 (C) they have written agreements with real estate brokers
 13 stating that they are not to be treated as employees for tax
 14 purposes.

15 (7) A person is an independent contractor in the construction
 16 trades and not an employee under IC 22-3-2 through IC 22-3-6 if
 17 the person is an independent contractor under the guidelines of
 18 the United States Internal Revenue Service.

19 (8) An owner-operator that provides a motor vehicle and the
 20 services of a driver under a written contract that is subject to
 21 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier
 22 is not an employee of the motor carrier for purposes of IC 22-3-2
 23 through IC 22-3-6. The owner-operator may elect to be covered
 24 and have the owner-operator's drivers covered under a worker's
 25 compensation insurance policy or authorized self-insurance that
 26 insures the motor carrier if the owner-operator pays the premiums
 27 as requested by the motor carrier. An election by an
 28 owner-operator under this subdivision does not terminate the
 29 independent contractor status of the owner-operator for any
 30 purpose other than the purpose of this subdivision.

31 (9) A member or manager in a limited liability company may elect
 32 to include the member or manager as an employee under
 33 IC 22-3-2 through IC 22-3-6 if the member or manager is actually
 34 engaged in the limited liability company business. If a member or
 35 manager makes this election, the member or manager must serve
 36 upon the member's or manager's insurance carrier and upon the
 37 board written notice of the election. A member or manager may
 38 not be considered an employee under IC 22-3-2 through IC 22-3-6
 39 until the notice has been received.

40 (10) An unpaid participant under the federal School to Work
 41 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
 42 extent set forth in IC 22-3-2-2.5.

43 (11) A person who enters into an independent contractor
 44 agreement with a nonprofit corporation that is recognized as tax
 45 exempt under Section 501(c)(3) of the Internal Revenue Code (as
 46 defined in IC 6-3-1-11(a)) to perform youth coaching services on
 47 a part-time basis is not an employee for purposes of IC 22-3-2
 48 through IC 22-3-6.

49 (c) "Minor" means an individual who has not reached seventeen
 50 (17) years of age.

51 (1) Unless otherwise provided in this subsection, a minor

1 employee shall be considered as being of full age for all purposes
2 of IC 22-3-2 through IC 22-3-6.

3 (2) If the employee is a minor who, at the time of the accident, is
4 employed, required, suffered, or permitted to work in violation of
5 IC 20-33-3-35, the amount of compensation and death benefits,
6 as provided in IC 22-3-2 through IC 22-3-6, shall be double the
7 amount which would otherwise be recoverable. The insurance
8 carrier shall be liable on its policy for one-half (1/2) of the
9 compensation or benefits that may be payable on account of the
10 injury or death of the minor, and the employer shall be liable for
11 the other one-half (1/2) of the compensation or benefits. If the
12 employee is a minor who is not less than sixteen (16) years of age
13 and who has not reached seventeen (17) years of age and who at
14 the time of the accident is employed, suffered, or permitted to
15 work at any occupation which is not prohibited by law, this
16 subdivision does not apply.

17 (3) A minor employee who, at the time of the accident, is a
18 student performing services for an employer as part of an
19 approved program under IC 20-37-2-7 shall be considered a
20 full-time employee for the purpose of computing compensation
21 for permanent impairment under IC 22-3-3-10. The average
22 weekly wages for such a student shall be calculated as provided
23 in subsection (d)(4).

24 (4) The rights and remedies granted in this subsection to a minor
25 under IC 22-3-2 through IC 22-3-6 on account of personal injury
26 or death by accident shall exclude all rights and remedies of the
27 minor, the minor's parents, or the minor's personal
28 representatives, dependents, or next of kin at common law,
29 statutory or otherwise, on account of the injury or death. This
30 subsection does not apply to minors who have reached seventeen
31 (17) years of age.

32 (d) "Average weekly wages" means the earnings of the injured
33 employee in the employment in which the employee was working at the
34 time of the injury during the period of fifty-two (52) weeks
35 immediately preceding the date of injury, divided by fifty-two (52),
36 except as follows:

37 (1) If the injured employee lost seven (7) or more calendar days
38 during this period, although not in the same week, then the
39 earnings for the remainder of the fifty-two (52) weeks shall be
40 divided by the number of weeks and parts thereof remaining after
41 the time lost has been deducted.

42 (2) Where the employment prior to the injury extended over a
43 period of less than fifty-two (52) weeks, the method of dividing
44 the earnings during that period by the number of weeks and parts
45 thereof during which the employee earned wages shall be
46 followed, if results just and fair to both parties will be obtained.
47 Where by reason of the shortness of the time during which the
48 employee has been in the employment of the employee's employer
49 or of the casual nature or terms of the employment it is
50 impracticable to compute the average weekly wages, as defined
51 in this subsection, regard shall be had to the average weekly

1 amount which during the fifty-two (52) weeks previous to the
 2 injury was being earned by a person in the same grade employed
 3 at the same work by the same employer or, if there is no person so
 4 employed, by a person in the same grade employed in the same
 5 class of employment in the same district.

6 (3) Wherever allowances of any character made to an employee
 7 in lieu of wages are a specified part of the wage contract, they
 8 shall be deemed a part of the employee's earnings.

9 (4) In computing the average weekly wages to be used in
 10 calculating an award for permanent impairment under
 11 IC 22-3-3-10 for a student employee in an approved training
 12 program under IC 20-37-2-7, the following formula shall be used.

13 Calculate the product of:

14 (A) the student employee's hourly wage rate; multiplied by

15 (B) forty (40) hours.

16 The result obtained is the amount of the average weekly wages for
 17 the student employee.

18 (e) "Injury" and "personal injury" mean only injury by accident
 19 arising out of and in the course of the employment and do not include
 20 a disease in any form except as it results from the injury.

21 (f) "Billing review service" refers to a person or an entity that
 22 reviews a medical service provider's bills or statements for the purpose
 23 of determining pecuniary liability. The term includes an employer's
 24 worker's compensation insurance carrier if the insurance carrier
 25 performs such a review.

26 (g) "Billing review standard" means the data used by a billing
 27 review service to determine pecuniary liability.

28 (h) "Community" means a geographic service area based on ZIP
 29 code districts defined by the United States Postal Service according to
 30 the following groupings:

31 (1) The geographic service area served by ZIP codes with the first
 32 three (3) digits 463 and 464.

33 (2) The geographic service area served by ZIP codes with the first
 34 three (3) digits 465 and 466.

35 (3) The geographic service area served by ZIP codes with the first
 36 three (3) digits 467 and 468.

37 (4) The geographic service area served by ZIP codes with the first
 38 three (3) digits 469 and 479.

39 (5) The geographic service area served by ZIP codes with the first
 40 three (3) digits 460, 461 (except 46107), and 473.

41 (6) The geographic service area served by the 46107 ZIP code and
 42 ZIP codes with the first three (3) digits 462.

43 (7) The geographic service area served by ZIP codes with the first
 44 three (3) digits 470, 471, 472, 474, and 478.

45 (8) The geographic service area served by ZIP codes with the first
 46 three (3) digits 475, 476, and 477.

47 (i) "Medical service provider" refers to a person or an entity that
 48 provides medical services, treatment, or supplies to an employee under
 49 IC 22-3-2 through IC 22-3-6.

50 (j) "Pecuniary liability" means the responsibility of an employer or
 51 the employer's insurance carrier for the payment of the charges for each

1 specific service or product for human medical treatment provided
 2 under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or
 3 less than the charges made by medical service providers at the eightieth
 4 percentile in the same community for like services or products.

5 SECTION 12. IC 22-3-7-9, AS AMENDED BY P.L.180-2009,
 6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2011]: Sec. 9. (a) As used in this chapter, "employer" includes
 8 the state and any political subdivision, any municipal corporation
 9 within the state, any individual or the legal representative of a deceased
 10 individual, firm, association, limited liability company, or corporation
 11 or the receiver or trustee of the same, using the services of another for
 12 pay. A parent corporation and its subsidiaries shall each be considered
 13 joint employers of the corporation's, the parent's, or the subsidiaries'
 14 employees for purposes of sections 6 and 33 of this chapter. Both a
 15 lessor and a lessee of employees shall each be considered joint
 16 employers of the employees provided by the lessor to the lessee for
 17 purposes of sections 6 and 33 of this chapter. The term also includes an
 18 employer that provides on-the-job training under the federal School to
 19 Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth
 20 under section 2.5 of this chapter. If the employer is insured, the term
 21 includes the employer's insurer so far as applicable. However, the
 22 inclusion of an employer's insurer within this definition does not allow
 23 an employer's insurer to avoid payment for services rendered to an
 24 employee with the approval of the employer. The term does not include
 25 a nonprofit corporation that is recognized as tax exempt under Section
 26 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a))
 27 to the extent the corporation enters into an independent contractor
 28 agreement with a person for the performance of youth coaching
 29 services on a part-time basis.

30 (b) As used in this chapter, "employee" means every person,
 31 including a minor, in the service of another, under any contract of hire
 32 or apprenticeship written or implied, except one whose employment is
 33 both casual and not in the usual course of the trade, business,
 34 occupation, or profession of the employer. For purposes of this chapter
 35 the following apply:

36 (1) Any reference to an employee who has suffered disablement,
 37 when the employee is dead, also includes the employee's legal
 38 representative, dependents, and other persons to whom
 39 compensation may be payable.

40 (2) An owner of a sole proprietorship may elect to include the
 41 owner as an employee under this chapter if the owner is actually
 42 engaged in the proprietorship business. If the owner makes this
 43 election, the owner must serve upon the owner's insurance carrier
 44 and upon the board written notice of the election. No owner of a
 45 sole proprietorship may be considered an employee under this
 46 chapter unless the notice has been received. If the owner of a sole
 47 proprietorship:

48 (A) is an independent contractor in the construction trades and
 49 does not make the election provided under this subdivision,
 50 the owner must obtain ~~an affidavit~~ **a certificate** of exemption
 51 under section 34.5 of this chapter; **or**

- 1 **(B) is an independent contractor and does not make the**
 2 **election provided under this subdivision, the owner may**
 3 **obtain a certificate of exemption under IC 22-3-2-14.5.**
 4 (3) A partner in a partnership may elect to include the partner as
 5 an employee under this chapter if the partner is actually engaged
 6 in the partnership business. If a partner makes this election, the
 7 partner must serve upon the partner's insurance carrier and upon
 8 the board written notice of the election. No partner may be
 9 considered an employee under this chapter until the notice has
 10 been received. If a partner in a partnership:
 11 **(A) is an independent contractor in the construction trades and**
 12 **does not make the election provided under this subdivision,**
 13 **the partner must obtain an affidavit a certificate of exemption**
 14 **under section 34.5 of this chapter; or**
 15 **(B) is an independent contractor and does not make the**
 16 **election provided under this subdivision, the partner may**
 17 **obtain a certificate of exemption under IC 22-3-2-14.5.**
 18 (4) Real estate professionals are not employees under this chapter
 19 if:
 20 (A) they are licensed real estate agents;
 21 (B) substantially all their remuneration is directly related to
 22 sales volume and not the number of hours worked; and
 23 (C) they have written agreements with real estate brokers
 24 stating that they are not to be treated as employees for tax
 25 purposes.
 26 (5) A person is an independent contractor in the construction
 27 trades and not an employee under this chapter if the person is an
 28 independent contractor under the guidelines of the United States
 29 Internal Revenue Service.
 30 (6) An owner-operator that provides a motor vehicle and the
 31 services of a driver under a written contract that is subject to
 32 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor
 33 carrier is not an employee of the motor carrier for purposes of this
 34 chapter. The owner-operator may elect to be covered and have the
 35 owner-operator's drivers covered under a worker's compensation
 36 insurance policy or authorized self-insurance that insures the
 37 motor carrier if the owner-operator pays the premiums as
 38 requested by the motor carrier. An election by an owner-operator
 39 under this subdivision does not terminate the independent
 40 contractor status of the owner-operator for any purpose other than
 41 the purpose of this subdivision.
 42 (7) An unpaid participant under the federal School to Work
 43 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
 44 extent set forth under section 2.5 of this chapter.
 45 (8) A person who enters into an independent contractor agreement
 46 with a nonprofit corporation that is recognized as tax exempt
 47 under Section 501(c)(3) of the Internal Revenue Code (as defined
 48 in IC 6-3-1-11(a)) to perform youth coaching services on a
 49 part-time basis is not an employee for purposes of this chapter.
 50 (9) An officer of a corporation who is the sole officer of the
 51 corporation is an employee of the corporation under this chapter.

1 An officer of a corporation who is the sole officer of the
2 corporation may elect not to be an employee of the corporation
3 under this chapter. If an officer makes this election, the officer
4 must serve written notice of the election on the corporation's
5 insurance carrier and the board. An officer of a corporation who
6 is the sole officer of the corporation may not be considered to be
7 excluded as an employee under this chapter until the notice is
8 received by the insurance carrier and the board.

9 (c) As used in this chapter, "minor" means an individual who has
10 not reached seventeen (17) years of age. A minor employee shall be
11 considered as being of full age for all purposes of this chapter.
12 However, if the employee is a minor who, at the time of the last
13 exposure, is employed, required, suffered, or permitted to work in
14 violation of the child labor laws of this state, the amount of
15 compensation and death benefits, as provided in this chapter, shall be
16 double the amount which would otherwise be recoverable. The
17 insurance carrier shall be liable on its policy for one-half (1/2) of the
18 compensation or benefits that may be payable on account of the
19 disability or death of the minor, and the employer shall be wholly liable
20 for the other one-half (1/2) of the compensation or benefits. If the
21 employee is a minor who is not less than sixteen (16) years of age and
22 who has not reached seventeen (17) years of age, and who at the time
23 of the last exposure is employed, suffered, or permitted to work at any
24 occupation which is not prohibited by law, the provisions of this
25 subsection prescribing double the amount otherwise recoverable do not
26 apply. The rights and remedies granted to a minor under this chapter on
27 account of disease shall exclude all rights and remedies of the minor,
28 the minor's parents, the minor's personal representatives, dependents,
29 or next of kin at common law, statutory or otherwise, on account of any
30 disease.

31 (d) This chapter does not apply to casual laborers as defined in
32 subsection (b), nor to farm or agricultural employees, nor to household
33 employees, nor to railroad employees engaged in train service as
34 engineers, firemen, conductors, brakemen, flagmen, baggagemen, or
35 foremen in charge of yard engines and helpers assigned thereto, nor to
36 their employers with respect to these employees. Also, this chapter
37 does not apply to employees or their employers with respect to
38 employments in which the laws of the United States provide for
39 compensation or liability for injury to the health, disability, or death by
40 reason of diseases suffered by these employees.

41 (e) As used in this chapter, "disablement" means the event of
42 becoming disabled from earning full wages at the work in which the
43 employee was engaged when last exposed to the hazards of the
44 occupational disease by the employer from whom the employee claims
45 compensation or equal wages in other suitable employment, and
46 "disability" means the state of being so incapacitated.

47 (f) For the purposes of this chapter, no compensation shall be
48 payable for or on account of any occupational diseases unless
49 disablement, as defined in subsection (e), occurs within two (2) years
50 after the last day of the last exposure to the hazards of the disease
51 except for the following:

- 1 (1) In all cases of occupational diseases caused by the inhalation
 2 of silica dust or coal dust, no compensation shall be payable
 3 unless disablement, as defined in subsection (e), occurs within
 4 three (3) years after the last day of the last exposure to the hazards
 5 of the disease.
- 6 (2) In all cases of occupational disease caused by the exposure to
 7 radiation, no compensation shall be payable unless disablement,
 8 as defined in subsection (e), occurs within two (2) years from the
 9 date on which the employee had knowledge of the nature of the
 10 employee's occupational disease or, by exercise of reasonable
 11 diligence, should have known of the existence of such disease and
 12 its causal relationship to the employee's employment.
- 13 (3) In all cases of occupational diseases caused by the inhalation
 14 of asbestos dust, no compensation shall be payable unless
 15 disablement, as defined in subsection (e), occurs within three (3)
 16 years after the last day of the last exposure to the hazards of the
 17 disease if the last day of the last exposure was before July 1, 1985.
- 18 (4) In all cases of occupational disease caused by the inhalation
 19 of asbestos dust in which the last date of the last exposure occurs
 20 on or after July 1, 1985, and before July 1, 1988, no compensation
 21 shall be payable unless disablement, as defined in subsection (e),
 22 occurs within twenty (20) years after the last day of the last
 23 exposure.
- 24 (5) In all cases of occupational disease caused by the inhalation
 25 of asbestos dust in which the last date of the last exposure occurs
 26 on or after July 1, 1988, no compensation shall be payable unless
 27 disablement (as defined in subsection (e)) occurs within
 28 thirty-five (35) years after the last day of the last exposure.
- 29 (g) For the purposes of this chapter, no compensation shall be
 30 payable for or on account of death resulting from any occupational
 31 disease unless death occurs within two (2) years after the date of
 32 disablement. However, this subsection does not bar compensation for
 33 death:
- 34 (1) where death occurs during the pendency of a claim filed by an
 35 employee within two (2) years after the date of disablement and
 36 which claim has not resulted in a decision or has resulted in a
 37 decision which is in process of review or appeal; or
- 38 (2) where, by agreement filed or decision rendered, a
 39 compensable period of disability has been fixed and death occurs
 40 within two (2) years after the end of such fixed period, but in no
 41 event later than three hundred (300) weeks after the date of
 42 disablement.
- 43 (h) As used in this chapter, "billing review service" refers to a
 44 person or an entity that reviews a medical service provider's bills or
 45 statements for the purpose of determining pecuniary liability. The term
 46 includes an employer's worker's compensation insurance carrier if the
 47 insurance carrier performs such a review.
- 48 (i) As used in this chapter, "billing review standard" means the data
 49 used by a billing review service to determine pecuniary liability.
- 50 (j) As used in this chapter, "community" means a geographic service
 51 area based on ZIP code districts defined by the United States Postal

- 1 Service according to the following groupings:
- 2 (1) The geographic service area served by ZIP codes with the first
- 3 three (3) digits 463 and 464.
- 4 (2) The geographic service area served by ZIP codes with the first
- 5 three (3) digits 465 and 466.
- 6 (3) The geographic service area served by ZIP codes with the first
- 7 three (3) digits 467 and 468.
- 8 (4) The geographic service area served by ZIP codes with the first
- 9 three (3) digits 469 and 479.
- 10 (5) The geographic service area served by ZIP codes with the first
- 11 three (3) digits 460, 461 (except 46107), and 473.
- 12 (6) The geographic service area served by the 46107 ZIP code and
- 13 ZIP codes with the first three (3) digits 462.
- 14 (7) The geographic service area served by ZIP codes with the first
- 15 three (3) digits 470, 471, 472, 474, and 478.
- 16 (8) The geographic service area served by ZIP codes with the first
- 17 three (3) digits 475, 476, and 477.
- 18 (k) As used in this chapter, "medical service provider" refers to a
- 19 person or an entity that provides medical services, treatment, or
- 20 supplies to an employee under this chapter.
- 21 (l) As used in this chapter, "pecuniary liability" means the
- 22 responsibility of an employer or the employer's insurance carrier for the
- 23 payment of the charges for each specific service or product for human
- 24 medical treatment provided under this chapter in a defined community,
- 25 equal to or less than the charges made by medical service providers at
- 26 the eightieth percentile in the same community for like services or
- 27 products.
- 28 SECTION 13. IC 22-3-7-16, AS AMENDED BY P.L.134-2006,
- 29 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2011]: Sec. 16. (a) Compensation shall be allowed on account
- 31 of disablement from occupational disease resulting in only temporary
- 32 total disability to work or temporary partial disability to work
- 33 beginning with the eighth day of such disability except for the medical
- 34 benefits provided for in section 17 of this chapter. Compensation shall
- 35 be allowed for the first seven (7) calendar days only as provided in this
- 36 section. The first weekly installment of compensation for temporary
- 37 disability is due fourteen (14) days after the disability begins. Not later
- 38 than fifteen (15) days from the date that the first installment of
- 39 compensation is due, the employer or the employer's insurance carrier
- 40 shall tender to the employee or to the employee's dependents, with all
- 41 compensation due, a properly prepared compensation agreement in a
- 42 form prescribed by the board. Whenever an employer or the employer's
- 43 insurance carrier denies or is not able to determine liability to pay
- 44 compensation or benefits, the employer or the employer's insurance
- 45 carrier shall notify the worker's compensation board and the employee
- 46 in writing on a form prescribed by the worker's compensation board not
- 47 later than thirty (30) days after the employer's knowledge of the
- 48 claimed disablement. If a determination of liability cannot be made
- 49 within thirty (30) days, the worker's compensation board may approve
- 50 an additional thirty (30) days upon a written request of the employer or
- 51 the employer's insurance carrier that sets forth the reasons that the

1 determination could not be made within thirty (30) days and states the
 2 facts or circumstances that are necessary to determine liability within
 3 the additional thirty (30) days. More than thirty (30) days of additional
 4 time may be approved by the worker's compensation board upon the
 5 filing of a petition by the employer or the employer's insurance carrier
 6 that sets forth:

- 7 (1) the extraordinary circumstances that have precluded a
- 8 determination of liability within the initial sixty (60) days;
- 9 (2) the status of the investigation on the date the petition is filed;
- 10 (3) the facts or circumstances that are necessary to make a
- 11 determination; and
- 12 (4) a timetable for the completion of the remaining investigation.

13 An employer who fails to comply with this section is subject to a civil
 14 penalty of fifty dollars (\$50); ~~to be assessed and collected by the board~~
 15 ~~upon notice and hearing. Civil penalties collected under this section~~
 16 ~~shall be deposited in the state general fund. under IC 22-3-4-15.~~

17 (b) Once begun, temporary total disability benefits may not be
 18 terminated by the employer unless:

- 19 (1) the employee has returned to work;
- 20 (2) the employee has died;
- 21 (3) the employee has refused to undergo a medical examination
- 22 under section 20 of this chapter;
- 23 (4) the employee has received five hundred (500) weeks of
- 24 temporary total disability benefits or has been paid the maximum
- 25 compensation allowable under section 19 of this chapter; or
- 26 (5) the employee is unable or unavailable to work for reasons
- 27 unrelated to the compensable disease.

28 In all other cases the employer must notify the employee in writing of
 29 the employer's intent to terminate the payment of temporary total
 30 disability benefits, and of the availability of employment, if any, on a
 31 form approved by the board. If the employee disagrees with the
 32 proposed termination, the employee must give written notice of
 33 disagreement to the board and the employer within seven (7) days after
 34 receipt of the notice of intent to terminate benefits. If the board and
 35 employer do not receive a notice of disagreement under this section,
 36 the employee's temporary total disability benefits shall be terminated.
 37 Upon receipt of the notice of disagreement, the board shall immediately
 38 contact the parties, which may be by telephone or other means and
 39 attempt to resolve the disagreement. If the board is unable to resolve
 40 the disagreement within ten (10) days of receipt of the notice of
 41 disagreement, the board shall immediately arrange for an evaluation of
 42 the employee by an independent medical examiner. The independent
 43 medical examiner shall be selected by mutual agreement of the parties
 44 or, if the parties are unable to agree, appointed by the board under
 45 IC 22-3-4-11. If the independent medical examiner determines that the
 46 employee is no longer temporarily disabled or is still temporarily
 47 disabled but can return to employment that the employer has made
 48 available to the employee, or if the employee fails or refuses to appear
 49 for examination by the independent medical examiner, temporary total
 50 disability benefits may be terminated. If either party disagrees with the
 51 opinion of the independent medical examiner, the party shall apply to

1 the board for a hearing under section 27 of this chapter.

2 (c) An employer is not required to continue the payment of
3 temporary total disability benefits for more than fourteen (14) days
4 after the employer's proposed termination date unless the independent
5 medical examiner determines that the employee is temporarily disabled
6 and unable to return to any employment that the employer has made
7 available to the employee.

8 (d) If it is determined that as a result of this section temporary total
9 disability benefits were overpaid, the overpayment shall be deducted
10 from any benefits due the employee under this section and, if there are
11 no benefits due the employee or the benefits due the employee do not
12 equal the amount of the overpayment, the employee shall be
13 responsible for paying any overpayment which cannot be deducted
14 from benefits due the employee.

15 (e) For disablements occurring on and after July 1, 1976, from
16 occupational disease resulting in temporary total disability for any work
17 there shall be paid to the disabled employee during the temporary total
18 disability weekly compensation equal to sixty-six and two-thirds
19 percent (66 2/3%) of the employee's average weekly wages, as defined
20 in section 19 of this chapter, for a period not to exceed five hundred
21 (500) weeks. Compensation shall be allowed for the first seven (7)
22 calendar days only if the disability continues for longer than twenty-one
23 (21) days.

24 (f) For disablements occurring on and after July 1, 1974, from
25 occupational disease resulting in temporary partial disability for work
26 there shall be paid to the disabled employee during such disability a
27 weekly compensation equal to sixty-six and two-thirds percent (66
28 2/3%) of the difference between the employee's average weekly wages,
29 as defined in section 19 of this chapter, and the weekly wages at which
30 the employee is actually employed after the disablement, for a period
31 not to exceed three hundred (300) weeks. Compensation shall be
32 allowed for the first seven (7) calendar days only if the disability
33 continues for longer than twenty-one (21) days. In case of partial
34 disability after the period of temporary total disability, the latter period
35 shall be included as a part of the maximum period allowed for partial
36 disability.

37 (g) For disabilities occurring on and after July 1, 1979, and before
38 July 1, 1988, from occupational disease in the schedule set forth in
39 subsection (j), the employee shall receive in addition to disability
40 benefits, not exceeding fifty-two (52) weeks on account of the
41 occupational disease, a weekly compensation of sixty percent (60%) of
42 the employee's average weekly wages, not to exceed one hundred
43 twenty-five dollars (\$125) average weekly wages, for the period stated
44 for the disabilities.

45 (h) For disabilities occurring on and after July 1, 1988, and before
46 July 1, 1989, from occupational disease in the schedule set forth in
47 subsection (j), the employee shall receive in addition to disability
48 benefits, not exceeding seventy-eight (78) weeks on account of the
49 occupational disease, a weekly compensation of sixty percent (60%) of
50 the employee's average weekly wages, not to exceed one hundred
51 sixty-six dollars (\$166) average weekly wages, for the period stated for

1 the disabilities.

2 (i) For disabilities occurring on and after July 1, 1989, and before
3 July 1, 1990, from occupational disease in the schedule set forth in
4 subsection (j), the employee shall receive in addition to disability
5 benefits, not exceeding seventy-eight (78) weeks on account of the
6 occupational disease, a weekly compensation of sixty percent (60%) of
7 the employee's average weekly wages, not to exceed one hundred
8 eighty-three dollars (\$183) average weekly wages, for the period stated
9 for the disabilities.

10 (j) For disabilities occurring on and after July 1, 1990, and before
11 July 1, 1991, from occupational disease in the following schedule, the
12 employee shall receive in addition to disability benefits, not exceeding
13 seventy-eight (78) weeks on account of the occupational disease, a
14 weekly compensation of sixty percent (60%) of the employee's average
15 weekly wages, not to exceed two hundred dollars (\$200) average
16 weekly wages, for the period stated for the disabilities.

17 (1) Amputations: For the loss by separation, of the thumb, sixty
18 (60) weeks; of the index finger, forty (40) weeks; of the second
19 finger, thirty-five (35) weeks; of the third or ring finger, thirty
20 (30) weeks; of the fourth or little finger, twenty (20) weeks; of the
21 hand by separation below the elbow, two hundred (200) weeks; of
22 the arm above the elbow joint, two hundred fifty (250) weeks; of
23 the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks;
24 of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15)
25 weeks; of the fifth or little toe, ten (10) weeks; of the foot below
26 the knee joint, one hundred fifty (150) weeks; and of the leg
27 above the knee joint, two hundred (200) weeks. The loss of more
28 than one (1) phalange of a thumb or toe shall be considered as the
29 loss of the entire thumb or toe. The loss of more than two (2)
30 phalanges of a finger shall be considered as the loss of the entire
31 finger. The loss of not more than one (1) phalange of a thumb or
32 toe shall be considered as the loss of one-half (1/2) of the thumb
33 or toe and compensation shall be paid for one-half (1/2) of the
34 period for the loss of the entire thumb or toe. The loss of not more
35 than two (2) phalanges of a finger shall be considered as the loss
36 of one-half (1/2) the finger and compensation shall be paid for
37 one-half (1/2) of the period for the loss of the entire finger.

38 (2) Loss of Use: The total permanent loss of the use of an arm,
39 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
40 as the equivalent of the loss by separation of the arm, hand,
41 thumb, finger, leg, foot, toe, or phalange and the compensation
42 shall be paid for the same period as for the loss thereof by
43 separation.

44 (3) Partial Loss of Use: For the permanent partial loss of the use
45 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,
46 compensation shall be paid for the proportionate loss of the use of
47 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

48 (4) For disablements for occupational disease resulting in total
49 permanent disability, five hundred (500) weeks.

50 (5) For the loss of both hands, or both feet, or the total sight of
51 both eyes, or any two (2) of such losses resulting from the same

1 disablement by occupational disease, five hundred (500) weeks.
2 (6) For the permanent and complete loss of vision by enucleation
3 of an eye or its reduction to one-tenth (1/10) of normal vision with
4 glasses, one hundred fifty (150) weeks, and for any other
5 permanent reduction of the sight of an eye, compensation shall be
6 paid for a period proportionate to the degree of such permanent
7 reduction without correction or glasses. However, when such
8 permanent reduction without correction or glasses would result in
9 one hundred percent (100%) loss of vision, but correction or
10 glasses would result in restoration of vision, then compensation
11 shall be paid for fifty percent (50%) of such total loss of vision
12 without glasses plus an additional amount equal to the
13 proportionate amount of such reduction with glasses, not to
14 exceed an additional fifty percent (50%).

15 (7) For the permanent and complete loss of hearing, two hundred
16 (200) weeks.

17 (8) In all other cases of permanent partial impairment,
18 compensation proportionate to the degree of such permanent
19 partial impairment, in the discretion of the worker's compensation
20 board, not exceeding five hundred (500) weeks.

21 (9) In all cases of permanent disfigurement, which may impair the
22 future usefulness or opportunities of the employee, compensation
23 in the discretion of the worker's compensation board, not
24 exceeding two hundred (200) weeks, except that no compensation
25 shall be payable under this paragraph where compensation shall
26 be payable under subdivisions (1) through (8). Where
27 compensation for temporary total disability has been paid, this
28 amount of compensation shall be deducted from any
29 compensation due for permanent disfigurement.

30 (k) With respect to disablements in the following schedule occurring
31 on and after July 1, 1991, the employee shall receive in addition to
32 temporary total disability benefits, not exceeding one hundred
33 twenty-five (125) weeks on account of the disablement, compensation
34 in an amount determined under the following schedule to be paid
35 weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the
36 employee's average weekly wages during the fifty-two (52) weeks
37 immediately preceding the week in which the disablement occurred:

38 (1) Amputation: For the loss by separation of the thumb, twelve
39 (12) degrees of permanent impairment; of the index finger, eight
40 (8) degrees of permanent impairment; of the second finger, seven
41 (7) degrees of permanent impairment; of the third or ring finger,
42 six (6) degrees of permanent impairment; of the fourth or little
43 finger, four (4) degrees of permanent impairment; of the hand by
44 separation below the elbow joint, forty (40) degrees of permanent
45 impairment; of the arm above the elbow, fifty (50) degrees of
46 permanent impairment; of the big toe, twelve (12) degrees of
47 permanent impairment; of the second toe, six (6) degrees of
48 permanent impairment; of the third toe, four (4) degrees of
49 permanent impairment; of the fourth toe, three (3) degrees of
50 permanent impairment; of the fifth or little toe, two (2) degrees of
51 permanent impairment; of separation of the foot below the knee

- 1 joint, thirty-five (35) degrees of permanent impairment; and of the
2 leg above the knee joint, forty-five (45) degrees of permanent
3 impairment.
- 4 (2) Amputations occurring on or after July 1, 1997: For the loss
5 by separation of any of the body parts described in subdivision (1)
6 on or after July 1, 1997, the dollar values per degree applying on
7 the date of the injury as described in subsection (l) shall be
8 multiplied by two (2). However, the doubling provision of this
9 subdivision does not apply to a loss of use that is not a loss by
10 separation.
- 11 (3) The loss of more than one (1) phalange of a thumb or toe shall
12 be considered as the loss of the entire thumb or toe. The loss of
13 more than two (2) phalanges of a finger shall be considered as the
14 loss of the entire finger. The loss of not more than one (1)
15 phalange of a thumb or toe shall be considered as the loss of
16 one-half (1/2) of the degrees of permanent impairment for the loss
17 of the entire thumb or toe. The loss of not more than one (1)
18 phalange of a finger shall be considered as the loss of one-third
19 (1/3) of the finger and compensation shall be paid for one-third
20 (1/3) of the degrees payable for the loss of the entire finger. The
21 loss of more than one (1) phalange of the finger but not more than
22 two (2) phalanges of the finger shall be considered as the loss of
23 one-half (1/2) of the finger and compensation shall be paid for
24 one-half (1/2) of the degrees payable for the loss of the entire
25 finger.
- 26 (4) For the loss by separation of both hands or both feet or the
27 total sight of both eyes or any two (2) such losses in the same
28 accident, one hundred (100) degrees of permanent impairment.
- 29 (5) For the permanent and complete loss of vision by enucleation
30 or its reduction to one-tenth (1/10) of normal vision with glasses,
31 thirty-five (35) degrees of permanent impairment.
- 32 (6) For the permanent and complete loss of hearing in one (1) ear,
33 fifteen (15) degrees of permanent impairment, and in both ears,
34 forty (40) degrees of permanent impairment.
- 35 (7) For the loss of one (1) testicle, ten (10) degrees of permanent
36 impairment; for the loss of both testicles, thirty (30) degrees of
37 permanent impairment.
- 38 (8) Loss of use: The total permanent loss of the use of an arm, a
39 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
40 considered as the equivalent of the loss by separation of the arm,
41 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
42 shall be paid in the same amount as for the loss by separation.
43 However, the doubling provision of subdivision (2) does not
44 apply to a loss of use that is not a loss by separation.
- 45 (9) Partial loss of use: For the permanent partial loss of the use of
46 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
47 phalange, compensation shall be paid for the proportionate loss of
48 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.
- 49 (10) For disablements resulting in total permanent disability, the
50 amount payable for impairment or five hundred (500) weeks of
51 compensation, whichever is greater.

1 (11) For any permanent reduction of the sight of an eye less than
2 a total loss as specified in subdivision (5), the compensation shall
3 be paid in an amount proportionate to the degree of a permanent
4 reduction without correction or glasses. However, when a
5 permanent reduction without correction or glasses would result in
6 one hundred percent (100%) loss of vision, then compensation
7 shall be paid for fifty percent (50%) of the total loss of vision
8 without glasses, plus an additional amount equal to the
9 proportionate amount of the reduction with glasses, not to exceed
10 an additional fifty percent (50%).

11 (12) For any permanent reduction of the hearing of one (1) or both
12 ears, less than the total loss as specified in subdivision (6),
13 compensation shall be paid in an amount proportionate to the
14 degree of a permanent reduction.

15 (13) In all other cases of permanent partial impairment,
16 compensation proportionate to the degree of a permanent partial
17 impairment, in the discretion of the worker's compensation board,
18 not exceeding one hundred (100) degrees of permanent
19 impairment.

20 (14) In all cases of permanent disfigurement which may impair
21 the future usefulness or opportunities of the employee,
22 compensation, in the discretion of the worker's compensation
23 board, not exceeding forty (40) degrees of permanent impairment
24 except that no compensation shall be payable under this
25 subdivision where compensation is payable elsewhere in this
26 section.

27 (l) With respect to disablements occurring on and after July 1, 1991,
28 compensation for permanent partial impairment shall be paid according
29 to the degree of permanent impairment for the disablement determined
30 under subsection (k) and the following:

31 (1) With respect to disablements occurring on and after July 1,
32 1991, and before July 1, 1992, for each degree of permanent
33 impairment from one (1) to thirty-five (35), five hundred dollars
34 (\$500) per degree; for each degree of permanent impairment from
35 thirty-six (36) to fifty (50), nine hundred dollars (\$900) per
36 degree; for each degree of permanent impairment above fifty (50),
37 one thousand five hundred dollars (\$1,500) per degree.

38 (2) With respect to disablements occurring on and after July 1,
39 1992, and before July 1, 1993, for each degree of permanent
40 impairment from one (1) to twenty (20), five hundred dollars
41 (\$500) per degree; for each degree of permanent impairment from
42 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
43 per degree; for each degree of permanent impairment from
44 thirty-six (36) to fifty (50), one thousand three hundred dollars
45 (\$1,300) per degree; for each degree of permanent impairment
46 above fifty (50), one thousand seven hundred dollars (\$1,700) per
47 degree.

48 (3) With respect to disablements occurring on and after July 1,
49 1993, and before July 1, 1997, for each degree of permanent
50 impairment from one (1) to ten (10), five hundred dollars (\$500)
51 per degree; for each degree of permanent impairment from eleven

1 (11) to twenty (20), seven hundred dollars (\$700) per degree; for
2 each degree of permanent impairment from twenty-one (21) to
3 thirty-five (35), one thousand dollars (\$1,000) per degree; for
4 each degree of permanent impairment from thirty-six (36) to fifty
5 (50), one thousand four hundred dollars (\$1,400) per degree; for
6 each degree of permanent impairment above fifty (50), one
7 thousand seven hundred dollars (\$1,700) per degree.

8 (4) With respect to disablements occurring on and after July 1,
9 1997, and before July 1, 1998, for each degree of permanent
10 impairment from one (1) to ten (10), seven hundred fifty dollars
11 (\$750) per degree; for each degree of permanent impairment from
12 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
13 degree; for each degree of permanent impairment from thirty-six
14 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
15 degree; for each degree of permanent impairment above fifty (50),
16 one thousand seven hundred dollars (\$1,700) per degree.

17 (5) With respect to disablements occurring on and after July 1,
18 1998, and before July 1, 1999, for each degree of permanent
19 impairment from one (1) to ten (10), seven hundred fifty dollars
20 (\$750) per degree; for each degree of permanent impairment from
21 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
22 degree; for each degree of permanent impairment from thirty-six
23 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
24 degree; for each degree of permanent impairment above fifty (50),
25 one thousand seven hundred dollars (\$1,700) per degree.

26 (6) With respect to disablements occurring on and after July 1,
27 1999, and before July 1, 2000, for each degree of permanent
28 impairment from one (1) to ten (10), nine hundred dollars (\$900)
29 per degree; for each degree of permanent impairment from eleven
30 (11) to thirty-five (35), one thousand one hundred dollars
31 (\$1,100) per degree; for each degree of permanent impairment
32 from thirty-six (36) to fifty (50), one thousand six hundred dollars
33 (\$1,600) per degree; for each degree of permanent impairment
34 above fifty (50), two thousand dollars (\$2,000) per degree.

35 (7) With respect to disablements occurring on and after July 1,
36 2000, and before July 1, 2001, for each degree of permanent
37 impairment from one (1) to ten (10), one thousand one hundred
38 dollars (\$1,100) per degree; for each degree of permanent
39 impairment from eleven (11) to thirty-five (35), one thousand
40 three hundred dollars (\$1,300) per degree; for each degree of
41 permanent impairment from thirty-six (36) to fifty (50), two
42 thousand dollars (\$2,000) per degree; for each degree of
43 permanent impairment above fifty (50), two thousand five
44 hundred fifty dollars (\$2,500) per degree.

45 (8) With respect to disablements occurring on and after July 1,
46 2001, and before July 1, 2007, for each degree of permanent
47 impairment from one (1) to ten (10), one thousand three hundred
48 dollars (\$1,300) per degree; for each degree of permanent
49 impairment from eleven (11) to thirty-five (35), one thousand five
50 hundred dollars (\$1,500) per degree; for each degree of
51 permanent impairment from thirty-six (36) to fifty (50), two

1 thousand four hundred dollars (\$2,400) per degree; for each
2 degree of permanent impairment above fifty (50), three thousand
3 dollars (\$3,000) per degree.

4 (9) With respect to disablements occurring on and after July 1,
5 2007, and before July 1, 2008, for each degree of permanent
6 impairment from one (1) to ten (10), one thousand three hundred
7 forty dollars (\$1,340) per degree; for each degree of permanent
8 impairment from eleven (11) to thirty-five (35), one thousand five
9 hundred forty-five dollars (\$1,545) per degree; for each degree of
10 permanent impairment from thirty-six (36) to fifty (50), two
11 thousand four hundred seventy-five dollars (\$2,475) per degree;
12 for each degree of permanent impairment above fifty (50), three
13 thousand one hundred fifty dollars (\$3,150) per degree.

14 (10) With respect to disablements occurring on and after July 1,
15 2008, and before July 1, 2009, for each degree of permanent
16 impairment from one (1) to ten (10), one thousand three hundred
17 sixty-five dollars (\$1,365) per degree; for each degree of
18 permanent impairment from eleven (11) to thirty-five (35), one
19 thousand five hundred seventy dollars (\$1,570) per degree; for
20 each degree of permanent impairment from thirty-six (36) to fifty
21 (50), two thousand five hundred twenty-five dollars (\$2,525) per
22 degree; for each degree of permanent impairment above fifty (50),
23 three thousand two hundred dollars (\$3,200) per degree.

24 (11) With respect to disablements occurring on and after July 1,
25 2009, and before July 1, 2010, for each degree of permanent
26 impairment from one (1) to ten (10), one thousand three hundred
27 eighty dollars (\$1,380) per degree; for each degree of permanent
28 impairment from eleven (11) to thirty-five (35), one thousand five
29 hundred eighty-five dollars (\$1,585) per degree; for each degree
30 of permanent impairment from thirty-six (36) to fifty (50), two
31 thousand six hundred dollars (\$2,600) per degree; for each degree
32 of permanent impairment above fifty (50), three thousand three
33 hundred dollars (\$3,300) per degree.

34 (12) With respect to disablements occurring on and after July 1,
35 2010, for each degree of permanent impairment from one (1) to
36 ten (10), one thousand four hundred dollars (\$1,400) per degree;
37 for each degree of permanent impairment from eleven (11) to
38 thirty-five (35), one thousand six hundred dollars (\$1,600) per
39 degree; for each degree of permanent impairment from thirty-six
40 (36) to fifty (50), two thousand seven hundred dollars (\$2,700)
41 per degree; for each degree of permanent impairment above fifty
42 (50), three thousand five hundred dollars (\$3,500) per degree.

43 (m) The average weekly wages used in the determination of
44 compensation for permanent partial impairment under subsections (k)
45 and (l) shall not exceed the following:

46 (1) With respect to disablements occurring on or after July 1,
47 1991, and before July 1, 1992, four hundred ninety-two dollars
48 (\$492).

49 (2) With respect to disablements occurring on or after July 1,
50 1992, and before July 1, 1993, five hundred forty dollars (\$540).

51 (3) With respect to disablements occurring on or after July 1,

- 1 1993, and before July 1, 1994, five hundred ninety-one dollars
2 (\$591).
- 3 (4) With respect to disablements occurring on or after July 1,
4 1994, and before July 1, 1997, six hundred forty-two dollars
5 (\$642).
- 6 (5) With respect to disablements occurring on or after July 1,
7 1997, and before July 1, 1998, six hundred seventy-two dollars
8 (\$672).
- 9 (6) With respect to disablements occurring on or after July 1,
10 1998, and before July 1, 1999, seven hundred two dollars (\$702).
- 11 (7) With respect to disablements occurring on or after July 1,
12 1999, and before July 1, 2000, seven hundred thirty-two dollars
13 (\$732).
- 14 (8) With respect to disablements occurring on or after July 1,
15 2000, and before July 1, 2001, seven hundred sixty-two dollars
16 (\$762).
- 17 (9) With respect to injuries occurring on or after July 1, 2001, and
18 before July 1, 2002, eight hundred twenty-two dollars (\$822).
- 19 (10) With respect to injuries occurring on or after July 1, 2002,
20 and before July 1, 2006, eight hundred eighty-two dollars (\$882).
- 21 (11) With respect to injuries occurring on or after July 1, 2006,
22 and before July 1, 2007, nine hundred dollars (\$900).
- 23 (12) With respect to injuries occurring on or after July 1, 2007,
24 and before July 1, 2008, nine hundred thirty dollars (\$930).
- 25 (13) With respect to injuries occurring on or after July 1, 2008,
26 and before July 1, 2009, nine hundred fifty-four dollars (\$954).
- 27 (14) With respect to injuries occurring on or after July 1, 2009,
28 nine hundred seventy-five dollars (\$975).
- 29 (n) If any employee, only partially disabled, refuses employment
30 suitable to the employee's capacity procured for the employee, the
31 employee shall not be entitled to any compensation at any time during
32 the continuance of such refusal unless, in the opinion of the worker's
33 compensation board, such refusal was justifiable. The employee must
34 be served with a notice setting forth the consequences of the refusal
35 under this subsection. The notice must be in a form prescribed by the
36 worker's compensation board.
- 37 (o) If an employee has sustained a permanent impairment or
38 disability from an accidental injury other than an occupational disease
39 in another employment than that in which the employee suffered a
40 subsequent disability from an occupational disease, such as herein
41 specified, the employee shall be entitled to compensation for the
42 subsequent disability in the same amount as if the previous impairment
43 or disability had not occurred. However, if the permanent impairment
44 or disability resulting from an occupational disease for which
45 compensation is claimed results only in the aggravation or increase of
46 a previously sustained permanent impairment from an occupational
47 disease or physical condition regardless of the source or cause of such
48 previously sustained impairment from an occupational disease or
49 physical condition, the board shall determine the extent of the
50 previously sustained permanent impairment from an occupational
51 disease or physical condition as well as the extent of the aggravation or

1 increase resulting from the subsequent permanent impairment or
2 disability, and shall award compensation only for that part of said
3 occupational disease or physical condition resulting from the
4 subsequent permanent impairment. An amputation of any part of the
5 body or loss of any or all of the vision of one (1) or both eyes caused by
6 an occupational disease shall be considered as a permanent impairment
7 or physical condition.

8 (p) If an employee suffers a disablement from an occupational
9 disease for which compensation is payable while the employee is still
10 receiving or entitled to compensation for a previous injury by accident
11 or disability by occupational disease in the same employment, the
12 employee shall not at the same time be entitled to compensation for
13 both, unless it be for a permanent injury, such as specified in
14 subsection (k)(1), (k)(4), (k)(5), (k)(8), or (k)(9), but the employee shall
15 be entitled to compensation for that disability and from the time of that
16 disability which will cover the longest period and the largest amount
17 payable under this chapter.

18 (q) If an employee receives a permanent disability from **an**
19 occupational disease such as specified in subsection (k)(1), (k)(4),
20 (k)(5), (k)(8), or (k)(9) after having sustained another such permanent
21 disability in the same employment the employee shall be entitled to
22 compensation for both such disabilities, but the total compensation
23 shall be paid by extending the period and not by increasing the amount
24 of weekly compensation and, when such previous and subsequent
25 permanent disabilities, in combination result in total permanent
26 disability or permanent total impairment, compensation shall be
27 payable for such permanent total disability or impairment, but
28 payments made for the previous disability or impairment shall be
29 deducted from the total payment of compensation due.

30 (r) When an employee has been awarded or is entitled to an award
31 of compensation for a definite period from an occupational disease
32 wherein disablement occurs on and after April 1, 1963, and such
33 employee dies from other causes than such occupational disease,
34 payment of the unpaid balance of such compensation not exceeding
35 three hundred fifty (350) weeks shall be paid to the employee's
36 dependents of the second and third class as defined in sections 11
37 through 14 of this chapter and compensation, not exceeding five
38 hundred (500) weeks shall be made to the employee's dependents of the
39 first class as defined in sections 11 through 14 of this chapter.

40 (s) Any payment made by the employer to the employee during the
41 period of the employee's disability, or to the employee's dependents,
42 which, by the terms of this chapter, was not due and payable when
43 made, may, subject to the approval of the worker's compensation board,
44 be deducted from the amount to be paid as compensation, but such
45 deduction shall be made from the distal end of the period during which
46 compensation must be paid, except in cases of temporary disability.

47 (t) When so provided in the compensation agreement or in the
48 award of the worker's compensation board, compensation may be paid
49 semimonthly, or monthly, instead of weekly.

50 (u) When the aggregate payments of compensation awarded by
51 agreement or upon hearing to an employee or dependent under eighteen

1 (18) years of age do not exceed one hundred dollars (\$100), the
2 payment thereof may be made directly to such employee or dependent,
3 except when the worker's compensation board shall order otherwise.

4 (v) Whenever the aggregate payments of compensation, due to any
5 person under eighteen (18) years of age, exceed one hundred dollars
6 (\$100), the payment thereof shall be made to a trustee, appointed by the
7 circuit or superior court, or to a duly qualified guardian, or, upon the
8 order of the worker's compensation board, to a parent or to such minor
9 person. The payment of compensation, due to any person eighteen (18)
10 years of age or over, may be made directly to such person.

11 (w) If an employee, or a dependent, is mentally incompetent, or a
12 minor at the time when any right or privilege accrues to the employee
13 under this chapter, the employee's guardian or trustee may, in the
14 employee's behalf, claim and exercise such right and privilege.

15 (x) All compensation payments named and provided for in this
16 section, shall mean and be defined to be for only such occupational
17 diseases and disabilities therefrom as are proved by competent
18 evidence, of which there are or have been objective conditions or
19 symptoms proven, not within the physical or mental control of the
20 employee.

21 SECTION 14. IC 22-3-7-17, AS AMENDED BY P.L.67-2010,
22 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2011]: Sec. 17. (a) During the period of disablement, the
24 employer shall furnish or cause to be furnished, free of charge to the
25 employee, an attending physician for the treatment of the employee's
26 occupational disease, and in addition thereto such surgical, hospital,
27 and nursing services and supplies as the attending physician or the
28 worker's compensation board may deem necessary. If the employee is
29 requested or required by the employer to submit to treatment outside
30 the county of employment, the employer shall also pay the reasonable
31 expense of travel, food, and lodging necessary during the travel, but not
32 to exceed the amount paid at the time of the travel by the state of
33 Indiana to its employees. If the treatment or travel to or from the place
34 of treatment causes a loss of working time to the employee, the
35 employer shall reimburse the employee for the loss of wages using the
36 basis of the employee's average daily wage.

37 (b) During the period of disablement resulting from the occupational
38 disease, the employer shall furnish such physician, services, and
39 supplies, and the worker's compensation board may, on proper
40 application of either party, require that treatment by such physician and
41 such services and supplies be furnished by or on behalf of the employer
42 as the board may deem reasonably necessary. After an employee's
43 occupational disease has been adjudicated by agreement or award on
44 the basis of permanent partial impairment and within the statutory
45 period for review in such case as provided in section 27(i) of this
46 chapter, the employer may continue to furnish a physician or a surgeon
47 and other medical services and supplies, and the board may, within
48 such statutory period for review as provided in section 27(i) of this
49 chapter, on a proper application of either party, require that treatment
50 by such physician or surgeon and such services and supplies be
51 furnished by and on behalf of the employer as the board may deem

1 necessary to limit or reduce the amount and extent of such impairment.
2 The refusal of the employee to accept such services and supplies when
3 so provided by or on behalf of the employer, shall bar the employee
4 from all compensation otherwise payable during the period of such
5 refusal and the employee's right to prosecute any proceeding under this
6 chapter shall be suspended and abated until such refusal ceases. The
7 employee must be served with a notice setting forth the consequences
8 of the refusal under this section. The notice must be in a form
9 prescribed by the worker's compensation board. No compensation for
10 permanent total impairment, permanent partial impairment, permanent
11 disfigurement, or death shall be paid or payable for that part or portion
12 of such impairment, disfigurement, or death which is the result of the
13 failure of such employee to accept such treatment, services, and
14 supplies, provided that an employer may at any time permit an
15 employee to have treatment for the employee's disease or injury by
16 spiritual means or prayer in lieu of such physician, services, and
17 supplies.

18 (c) Regardless of when it occurs, where a compensable occupational
19 disease results in the amputation of a body part, the enucleation of an
20 eye, or the loss of natural teeth, the employer shall furnish an
21 appropriate artificial member, braces, and prosthodontics. The cost of
22 repairs to or replacements for the artificial members, braces, or
23 prosthodontics that result from a compensable occupational disease
24 pursuant to a prior award and are required due to either medical
25 necessity or normal wear and tear, determined according to the
26 employee's individual use, but not abuse, of the artificial member,
27 braces, or prosthodontics, shall be paid from the second injury fund
28 upon order or award of the worker's compensation board. The
29 employee is not required to meet any other requirement for admission
30 to the second injury fund.

31 (d) If an emergency or because of the employer's failure to provide
32 such attending physician or such surgical, hospital, or nurse's services
33 and supplies or such treatment by spiritual means or prayer as specified
34 in this section, or for other good reason, a physician other than that
35 provided by the employer treats the diseased employee within the
36 period of disability, or necessary and proper surgical, hospital, or
37 nurse's services and supplies are procured within the period, the
38 reasonable cost of such services and supplies shall, subject to approval
39 of the worker's compensation board, be paid by the employer.

40 (e) An employer or employer's insurance carrier may not delay the
41 provision of emergency medical care whenever emergency medical
42 care is considered necessary in the professional judgment of the
43 attending health care facility physician.

44 (f) This section may not be construed to prohibit an agreement
45 between an employer and employees that has the approval of the board
46 and that:

- 47 (1) binds the parties to medical care furnished by providers
48 selected by agreement before or after disablement; or
- 49 (2) makes the findings of a provider chosen in this manner
50 binding upon the parties.

51 (g) The employee and the employee's estate do not have liability to

1 a health care provider for payment for services obtained under this
 2 section. The right to order payment for all services provided under this
 3 chapter is solely with the board. All claims by a health care provider for
 4 payment for services are against the employer and the employer's
 5 insurance carrier, if any, and must be made with the board under this
 6 chapter. **After June 30, 2011, a health care provider must file an**
 7 **application for adjustment of a claim for a health care provider's**
 8 **fee with the board not later than two (2) years after the receipt of**
 9 **an initial written communication from the employer, the**
 10 **employer's insurance carrier, if any, or an agent acting on behalf**
 11 **of the employer after the health care provider submits a bill for**
 12 **services. To offset a part of the board's expenses related to the**
 13 **administration of health care provider reimbursement disputes, a**
 14 **hospital or facility that is a medical service provider (as defined in**
 15 **IC 22-3-6-1) shall pay a filing fee of sixty dollars (\$60) in a balance**
 16 **billing case. The filing fee must accompany each application filed**
 17 **with the board. If an employer, employer's insurance carrier, or an**
 18 **agent acting on behalf of the employer denies or fails to pay any**
 19 **amount on a claim submitted by a hospital or facility that is a**
 20 **medical service provider, a filing fee is not required to accompany**
 21 **an application that is filed for the denied or unpaid claim. A health**
 22 **care provider may combine up to ten (10) individual claims into**
 23 **one (1) application whenever:**

24 (1) all individual claims involve the same employer, insurance
 25 carrier, or billing review service; and

26 (2) the amount of each individual claim does not exceed two
 27 hundred dollars (\$200).

28 SECTION 15. IC 22-3-7-34.3 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2011]: **Sec. 34.3. (a) The worker's**
 31 **compensation board is entitled to request that an employer provide**
 32 **the board with current proof of compliance with section 34 of this**
 33 **chapter.**

34 (b) **If an employer fails or refuses to provide current proof of**
 35 **compliance by the tenth day after the employer receives the**
 36 **board's request under subsection (a), the board:**

37 (1) shall send the employer a written notice that the employer
 38 is in violation of section 34 of this chapter; and

39 (2) may assess a civil penalty against the employer of fifty
 40 dollars (\$50) per employee per day.

41 (c) **An employer may challenge the board's assessment of a civil**
 42 **penalty under subsection (b)(2) by requesting a hearing in**
 43 **accordance with procedures established by the board.**

44 (d) **The board shall waive a civil penalty assessed under**
 45 **subsection (b)(2) if the employer provides the board current proof**
 46 **of compliance by the twentieth day after the date the employer**
 47 **receives the board's notice under subsection (b)(1).**

48 (e) **If an employer fails or refuses to:**

49 (1) provide current proof of compliance by the twentieth day
 50 after the date the employer receives the board's notice under
 51 subsection (b)(1); or

1 **(2) pay a civil penalty assessed under subsection (b)(2);**
 2 **the board may, after notice to the employer and a hearing, order**
 3 **that the noncompliant employer's name be listed on the board's**
 4 **Internet web site.**

5 **(f) A noncompliant employer's name may be removed from the**
 6 **board's Internet web site only after the employer does the**
 7 **following:**

8 **(1) Provides current proof of compliance with section 34 of**
 9 **this chapter.**

10 **(2) Pays all civil penalties assessed under subsection (b)(2).**

11 **(g) The civil penalties provided for in this section are**
 12 **cumulative.**

13 **(h) Civil penalties collected under this section shall be deposited**
 14 **in the worker's compensation supplemental administrative fund**
 15 **established by IC 22-3-5-6.**

16 SECTION 16. IC 22-3-7-37 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 37. (a) Every employer
 18 operating under the compensation provisions of this chapter shall keep
 19 a record of all disablements by occupational disease, fatal or otherwise,
 20 received by ~~his~~ **the employer's** employees in the course of their
 21 employment **and shall provide a copy of the record to the board**
 22 **upon request.** Within seven (7) days after the ~~occurrence~~ **first day of**
 23 **a disablement by occupational disease and the employer's**
 24 **knowledge thereof, of the disablement,** as provided in section 32 of
 25 this chapter, ~~of disablement to an employee causing his~~ **that causes the**
 26 **employee's** death or ~~his~~ absence from work for more than one (1) day,
 27 a report thereof shall be made in writing and mailed to the employer's
 28 insurance carrier or, if the employer is self insured, to the worker's
 29 compensation board on blanks to be procured from the board for the
 30 purpose. The insurance carrier shall mail the report to the worker's
 31 compensation board not later than seven (7) days after receipt or
 32 fourteen (14) days after the employer's knowledge of the occurrence,
 33 whichever is later. An employer or insurance carrier that fails to
 34 comply with this subsection is subject to a civil penalty ~~of fifty dollars~~
 35 ~~(\$50); to be assessed and collected by the board. Civil penalties~~
 36 ~~collected under this section shall be deposited in the state general fund.~~
 37 **under IC 22-3-4-15.**

38 (b) The report shall contain the name, nature and location of the
 39 business of the employer, the name, age, sex, wages, occupation of the
 40 employee, the approximate dates between which exposure occurred,
 41 the nature and cause of the occupational disease, and such other
 42 information as may be required by the board.

43 (c) A person who violates this section commits a Class C ~~infraction.~~
 44 **misdemeanor.**

45 (d) The venue of all criminal actions for the violation of this section
 46 lies in the county in which the employee was last exposed to the
 47 occupational disease causing disablement. The prosecuting attorney of
 48 the county shall prosecute these violations upon written request of the
 49 worker's compensation board. These shall be prosecuted in the name
 50 of the state.

51 SECTION 17. [EFFECTIVE JULY 1, 2011] **(a) As used in this**

1 **SECTION, "commission" refers to the pension management**
2 **oversight commission established by IC 2-5-12-1.**

3 **(b) The general assembly urges the legislative council to assign**
4 **the commission the task of studying the issue of increases in the**
5 **benefit schedules for worker's compensation and occupational**
6 **disease compensation.**

7 **(c) If the commission is assigned the topic described in**
8 **subsection (b), the commission shall issue a final report to the**
9 **legislative council containing the commission's findings and**
10 **recommendations, including any recommended legislation**
11 **concerning the topic, not later than November 1, 2011.**

12 **(d) This SECTION expires June 30, 2012.**

13 **SECTION 18. [EFFECTIVE JULY 1, 2011] (a) As used in this**
14 **SECTION, "commission" refers to the pension management**
15 **oversight commission established by IC 2-5-12-1.**

16 **(b) As used in this SECTION, "medical services facility" means**
17 **a hospital, clinic, surgery center, nursing home, rehabilitation**
18 **center, or other health care facility that provides medical services,**
19 **treatment, or supplies under IC 22-3-2 through IC 22-3-6.**

20 **(c) The general assembly urges the legislative council to assign**
21 **to the commission or another committee the task of studying**
22 **whether to amend the definition of "pecuniary liability" for**
23 **purposes of worker's compensation and occupational disease**
24 **compensation to establish the charge for services or products**
25 **provided by a medical services facility as equal to a percentage of**
26 **the amount determined using the Medicare program**
27 **reimbursement methodologies, models, and values or weights,**
28 **including the coding, billing, and reporting payment policies in**
29 **effect on the date a service or product is provided.**

30 **(d) If the commission or another committee is assigned the topic**
31 **described in subsection (c), the commission or the committee shall**
32 **issue a final report to the legislative council containing the**
33 **commission's or committee's findings and recommendations,**
34 **including any recommended legislation concerning the topic, not**
35 **later than November 1, 2011.**

36 **(e) This SECTION expires June 30, 2012.**

37 **SECTION 19. An emergency is declared for this act.**

 (Reference is to ESB 576 as reprinted April 13, 2011.)

Conference Committee Report
on
Engrossed Senate Bill 576

Signed by:

Senator Boots
Chairperson

Representative Lehman

Senator Tallian

Representative Niezgodski

Senate Conferees

House Conferees