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Final Fiscal Note

Drafting Number: LLS 21-0757 Date: June 18, 2021
Prime Sponsors: Sen. Rodriguez Bill Status: Postponed Indefinitely
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Bill Topic: WORKERS' COMPENSATION PHYSICIAN

- Summary of Fiscal Impact:
State Revenue (checkbox)
State Expenditure (checked)
State Transfer (checkbox)
TABOR Refund (checkbox)
Local Government (checked)
Statutory Public Entity (checked)

This bill would have modified the selection process for a treating physician in a workers' compensation case. It would have increased state, local government, and statutory public entity expenditures on an ongoing basis.

Appropriation Summary: For FY 2021-22, the bill would have required an appropriation of \$109,593 to the Department of Labor and Employment.

Fiscal Note Status: The fiscal note reflects the reengrossed bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 21-197

Table with 4 columns: Category, Budget Year FY 2021-22, Out Year FY 2022-23, and FTE. Rows include Revenue, Expenditures (Cash Funds, Reappropriated Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and TABOR Refund.

Summary of Legislation

Under current law, when a worker is injured on the job, the worker's employer or worker's compensation insurer is required to provide a list of designated providers from which the injured worker may select a physician or corporate medical provider for treatment. This bill allows the injured worker to choose their treating physician from any level I or level II accredited physician from the Physician's Accreditation Program in the Division of Workers' Compensation in the Department of Labor and Employment, within certain timeframes, and requires employers or insurers to notify workers of this right. If the employee declines to designate a physician within seven business days of notification, an employer or insurer may designate the employee's authorized treating physician. The employee may subsequently designate a physician.

State Expenditures

Beginning in FY 2021-22, the bill will increase state expenditures by \$1.1 million in the Department of Personnel and Administration and the Department of Labor and Employment from cash and reappropriated funds. Workload will also increase in the Department of Regulatory Agencies and other state agencies. First-year costs are prorated for an October start date. Costs are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 21-197

Cost Components	FY 2021-22	FY 2022-23
Department of Labor and Employment		
Personal Services	\$87,888	\$117,184
Operating Expenses	\$3,105	\$4,050
Capital Outlay Costs	\$18,600	-
Centrally Appropriated Costs ¹	\$30,952	\$40,603
FTE – Personal Services	2.3 FTE	3.0 FTE
CDLE Subtotal	\$140,545	\$161,837
Department of Personnel and Administration		
Workers' Compensation Medical Costs	\$652,500	\$870,000
DIME Applications	\$211,500	\$282,000
Legal Services	\$112,500	\$150,000
DPA Subtotal	\$976,500	\$1,302,000
Total	\$1,117,045	\$1,463,837
Total FTE	2.3 FTE	3.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Personnel and Administration. Overall, the bill is expected to increase costs in the DPA by \$1.3 million per year from the Workers' Compensation Pool.

- **Occupational medical providers.** The bill is expected to require the state to end or rework existing agreements with occupational medical providers that provide injured state employees care at a rate that is lower than the fee schedule. Using a five-year history of worker's compensation medical costs, it is estimated that the Workers' Compensation Pool will have an increase in medical costs up to 6.7 percent or \$870,000 per year.
- **Division Independent Medical Examinations (DIME) process.** The bill is expected to result in a three-fold increase of DIME applications, at an estimated cost of \$282,000 per year based on the department's recent administrative and legal expenses costs.
- **Legal services.** Finally, the DPA expects an increase in medical benefit-related hearings of 15 hearings at \$10,000 each. Legal services are reappropriated to the Department of Law.

For informational purposes, state workers' compensation claims are primarily filed by the employees with the Departments of Corrections, Human Services, and Public Safety. Any adjustment to state workers' compensation costs will be made through the annual budget process based on an actuarial analysis of actual claims and payments made so are not appropriated in this bill.

Department of Labor and Employment. Assuming that the Division of Workers' Compensation will require every injury to be reported to have the necessary information to resolve disputes about timing and determine who properly designated a physician, the CDLE requires 3.0 FTE Administrative Assistant to process these new filings. The division will also conduct rulemaking to reflect the change in the Workers' Compensation Rules of Procedure, and prescribe an authorized treating physician designation form, which can be accomplished within existing appropriations.

Department of Regulatory Agencies. The Division of Professions and Occupations will conduct outreach and education to physicians and respond to any new complaints. This increase in workload can be accomplished within existing appropriations.

All state agencies. State agencies will have additional workload to manage new administrative procedures around choice of physician. Any additional costs will be addressed through the annual budget process.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$40,603 in FY 2021- 22 and FY 2022-23.

Local Government

Similar to the state, this bill will increase workers' compensation and associated costs for local governments.

Statutory Public Entity

Pinnacol Assurance will have increased costs related to out-of-network providers, increased instances of physician change, administrative costs for claims representatives, and related litigation. This is expected to increase costs for Pinnacol by up to 15 percent annually, which would be recovered through premiums on employers.

Effective Date

The bill was postponed indefinitely by the House Business Affairs and Labor Committee on May 27, 2021.

State Appropriations

For FY 2021-22, the bill requires an appropriation of \$109,593 and 2.3 FTE to the Department of Labor and Employment from the Workers' Compensation Fund.

State and Local Government Contacts

Information Technology
Personnel

Labor
Regulatory Agencies

Law