



Legislative Activity Report

National Council on Compensation Insurance

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Regulatory Services

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RLA-2016-28

Report Contact: Legislative_Activity@ncci.com

State Issues Contacts: Please refer to the list of State Relations Executives at the end of this report.

LEGISLATIVE ACTIVITY—LEGISLATIVE SESSION UPDATES

This report contains descriptions and/or excerpts of relevant bills that passed the first chamber, passed the second chamber, or were enacted during the specific periods. In addition, a recap of significant legislative and judicial activity impacting the workers compensation system will be included in the first report published each month. This report is issued on a weekly basis throughout the legislative season, and it provides updates on the content of these bills if and when they progress through the legislative process. This report includes bills from states where NCCI provides ratemaking services (see state list under Contact Information) and the US Congress.

BILLS ENACTED

The following workers compensation-related bills were enacted within the one-week period ending July 15, 2016.

Missouri

SB 613 was:

- Passed by the first chamber on April 28, 2016
- Included in NCCI's May 6, 2016 *Legislative Activity Report* (RLA-2016-17)
- Passed by the second chamber on May 13, 2016
- Included in NCCI's May 20, 2016 *Legislative Activity Report* (RLA-2016-19)

SB 613 became law on July 14, 2016, with an effective date of August 28, 2016, without the governor's signature.

SB 613 adds new section 287.245 and amends sections 287.957. *Experience rating plan, contents* and 287.975. *Pure premium rate, schedule of rates, filed with director, when—payroll differential, advisory organization to collect data, when, purpose* of the Missouri Workers Compensation Law as follows:

287.245

1. As used in this section, the following terms shall mean:

- (1) "Association", volunteer fire protection associations as defined in section 320.300;
- (2) "State fire marshal", the state fire marshal selected under the provisions of sections 320.200 to 320.270;
- (3) "Volunteer firefighter", the same meaning as in section 287.243.

2. Any association may apply to the state fire marshal for a grant for the purpose of funding such association's costs related to workers' compensation insurance premiums for volunteer firefighters.

3. Subject to appropriations, the state fire marshal shall disburse grants to each applying volunteer fire protection association according to the following schedule:

- (1) Associations which had zero to five volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for two thousand dollars in grant money;
 - (2) Associations which had six to ten volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for one thousand five hundred dollars in grant money;
 - (3) Associations which had eleven to fifteen volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for one thousand dollars in grant money;
 - (4) Associations which had sixteen to twenty volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for five hundred dollars in grant money.
4. Grant money disbursed under this section shall only be used for the purpose of paying for the workers' compensation insurance

premiums of volunteer firefighters.

287.957 Experience rating plan, contents.

The experience rating plan shall contain reasonable eligibility standards, provide adequate incentives for loss prevention, and shall provide for sufficient premium differentials so as to encourage safety. The uniform experience rating plan shall be the exclusive means of providing prospective premium adjustment based upon measurement of the loss-producing characteristics of an individual insured. An insurer may submit a rating plan or plans providing for retrospective premium adjustments based upon an insured's past experience. Such system shall provide for retrospective adjustment of an experience modification and premiums paid pursuant to such experience modification where a prior reserved claim produced an experience modification that varied by greater than fifty percent from the experience modification that would have been established based on the settlement amount of that claim. The rating plan shall prohibit an adjustment to the experience modification of an employer if the total medical cost does not exceed ~~one thousand dollars~~ twenty percent of the current split point of primary and excess losses under the uniform experience rating plan, and the employer pays all of the total medical costs and there is no lost time from the employment, other than the first three days or less of disability under subsection 1 of section 287.160, and no claim is filed. An employer opting to utilize this provision maintains an obligation to report the injury under subsection 1 of section 287.380.

287.975 Pure premium rate, schedule of rates, filed with director, when—payroll differential, advisory organization to collect data, when, purpose.

1. The advisory organization shall file with the director every pure premium rate, every manual of rating rules, every rating schedule and every change or amendment, or modification of any of the foregoing, proposed for use in this state no more than thirty days after it is distributed to members, subscribers or others.

2. The advisory organization which makes a uniform classification system for use in setting rates in this state shall collect data for two years after January 1, 1994, on the payroll differential between employers within the construction group of code classifications, including, but not limited to, payroll costs of the employer and number of hours worked by all employees of the employer engaged in construction work. Such data shall be transferred to the department of insurance, financial institutions and professional registration in a form prescribed by the director of the department of insurance, financial institutions and professional registration, and the department shall compile the data and develop a formula to equalize premium rates for employers within the construction group of code classifications based on such payroll differential within three years after the data is submitted by the advisory organization.

3. The formula to equalize premium rates for employers within the construction group of code classifications established under subsection 2 of this section shall be the formula in effect on January 1, 1999. This subsection shall become effective on January 1, 2014.

4. For the purposes of calculating the premium credit under the Missouri contracting classification premium adjustment program, an employer within the construction group of code classifications may submit to the advisory organization the required payroll record information for the first, second, third, or fourth calendar quarter of the year prior to the workers' compensation policy beginning or renewal date, provided that the employer clearly indicates for which quarter the payroll information is being submitted.

SB 700 was:

- Passed by the first chamber on March 3, 2016
- Included in NCCI's March 11, 2016 *Legislative Activity Report* (RLA-2016-09)
- Amended and passed by the second chamber on April 26, 2016
- Included in NCCI's May 6, 2016 *Legislative Activity Report* (RLA-2016-17)
- Amended by Conference Committee—amendments adopted by the Senate on May 6, 2016, and the House on May 10, 2016

SB 700 became law on July 14, 2016, with an effective date of August 28, 2016, without the governor's signature.

SB 700 adds new section **287.245** and amends *sections 287.090. Exempt employers and occupations—election to accept—withdrawal—notification required of insurance companies, 287.957. Experience rating plan, contents, and 287.975. Pure premium rate, schedule of rates, filed with director, when—payroll differential, advisory organization to collect data, when, purpose* of the Missouri Workers Compensation Law as follows:

287.245.

1. As used in this section, the following terms shall mean:

- (1) "Association", volunteer fire protection associations as defined in section 320.300;
- (2) "State fire marshal", the state fire marshal selected under the provisions of sections 320.200 to 320.270;
- (3) "Volunteer firefighter", the same meaning as in section 287.243.

2. Any association may apply to the state fire marshal for a grant for the purpose of funding such association's costs related to workers' compensation insurance premiums for volunteer firefighters.

3. Subject to appropriations, the state fire marshal shall disburse grants to each applying volunteer fire protection association according to the following schedule:

- (1) Associations which had zero to five volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for two thousand dollars in grant money;

(2) Associations which had six to ten volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for one thousand five hundred dollars in grant money;

(3) Associations which had eleven to fifteen volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for one thousand dollars in grant money;

(4) Associations which had sixteen to twenty volunteer firefighters receive workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year shall be eligible for five hundred dollars in grant money.

4. Grant money disbursed under this section shall only be used for the purpose of paying for the workers' compensation insurance premiums of volunteer firefighters.

287.090. Exempt employers and occupations—election to accept—withdrawal—notification required of insurance companies.

1. This chapter shall not apply to:

...

(4) Except as provided in section 287.243, volunteers of a tax-exempt organization which operates under the standards of Section 501(c)(3) or Section 501(c)(19) of the federal Internal Revenue Code, where such volunteers are not paid wages, but provide services purely on a charitable and voluntary basis;

...

287.957. Experience rating plan, contents.

The experience rating plan shall contain reasonable eligibility standards, provide adequate incentives for loss prevention, and shall provide for sufficient premium differentials so as to encourage safety. The uniform experience rating plan shall be the exclusive means of providing prospective premium adjustment based upon measurement of the loss-producing characteristics of an individual insured. An insurer may submit a rating plan or plans providing for retrospective premium adjustments based upon an insured's past experience. Such system shall provide for retrospective adjustment of an experience modification and premiums paid pursuant to such experience modification where a prior reserved claim produced an experience modification that varied by greater than fifty percent from the experience modification that would have been established based on the settlement amount of that claim. The rating plan shall prohibit an adjustment to the experience modification of an employer if the total medical cost does not exceed ~~one thousand dollars~~ twenty percent of the current split point of primary and excess losses under the uniform experience rating plan, and the employer pays all of the total medical costs and there is no lost time from the employment, other than the first three days or less of disability under subsection 1 of section 287.160, and no claim is filed. An employer opting to utilize this provision maintains an obligation to report the injury under subsection 1 of section 287.380.

287.975. Pure premium rate, schedule of rates, filed with director, when—payroll differential, advisory organization to collect data, when, purpose.

1. The advisory organization shall file with the director every pure premium rate, every manual of rating rules, every rating schedule and every change or amendment, or modification of any of the foregoing, proposed for use in this state no more than thirty days after it is distributed to members, subscribers or others.

2. The advisory organization which makes a uniform classification system for use in setting rates in this state shall collect data for two years after January 1, 1994, on the payroll differential between employers within the construction group of code classifications, including, but not limited to, payroll costs of the employer and number of hours worked by all employees of the employer engaged in construction work. Such data shall be transferred to the department of insurance, financial institutions and professional registration in a form prescribed by the director of the department of insurance, financial institutions and professional registration, and the department shall compile the data and develop a formula to equalize premium rates for employers within the construction group of code classifications based on such payroll differential within three years after the data is submitted by the advisory organization.

3. The formula to equalize premium rates for employers within the construction group of code classifications established under subsection 2 of this section shall be the formula in effect on January 1, 1999. This subsection shall become effective on January 1, 2014.

4. For the purposes of calculating the premium credit under the Missouri contracting classification premium adjustment program, an employer within the construction group of code classifications may submit to the advisory organization the required payroll record information for the first, second, third, or fourth calendar quarter of the year prior to the workers' compensation policy beginning or renewal date, provided that the employer clearly indicates for which quarter the payroll information is being submitted.

Rhode Island

HB 8203 Substitute A and SB 2945 Substitute A are identical bills.

HB 8203 Substitute A was:

- Passed by the first and second chamber on June 16, 2016
- Included in NCCI's June 24, 2016 *Legislative Activity Report* (RLA-2016-24)

- Enacted and effective on July 13, 2016

SB 2945 Substitute A was:

- Passed by the first chamber on May 31, 2016
- Included in NCCI's June 10, 2016 *Legislative Activity Report* (RLA-2016-22)
- Passed by the second chamber on June 18, 2016
- Included in NCCI's July 1, 2016 *Legislative Activity Report* (RLA-2016-25)
- Enacted and effective on July 13, 2016

HB 8203 Substitute A/SB 2945 Substitute A amend *sections 28-30-22. Medical advisory board, 28-33-18.3 Continuation of benefits—Partial incapacity, 28-33-39. Transportation costs for medical examination, 28-33-41. Rehabilitation of injured persons, and 28-53-7. Payments to employees of uninsured employers*; and creates *section 42-16.1-19. Cost of legal and audit fees* of the Rhode Island General Laws as follows:

§ 28-30-22. Medical advisory board.

(a) The chief judge of the workers' compensation court, in consultation with the appropriate medical or professional association, shall appoint a medical advisory board that shall serve at the chief judge's pleasure and consist of eleven (11) members in the following specialties: one orthopedic surgeon; one neurologist; one physiatrist; one chiropractor; one physical therapist; one internist; one psychiatrist or psychologist; and four (4) ad hoc physician members appointed at the discretion of the chief judge. Members of the board shall be reimbursed ~~three hundred dollars (\$300)~~ five hundred dollars (\$500) per day served in the discharge of the board's duties, not to exceed six thousand dollars (\$6,000) per member in any year. The chief judge shall designate the chairperson of the board.

...

§ 28-33-18.3. Continuation of benefits—Partial incapacity.

(a) (1) For all injuries occurring on or after September 1, 1990, in those cases where the employee has received a notice of intention to terminate partial incapacity benefits pursuant to § 28-33-18, the employee, or his or her duly authorized representative, may file with the workers' compensation court a petition for continuation of benefits on forms prescribed by the workers' compensation court. In any proceeding before the workers' compensation court on a petition for continuation of partial incapacity benefits, where the employee demonstrates by a fair preponderance of the evidence that his or her partial incapacity poses a material hindrance to obtaining employment suitable to his or her limitation, partial incapacity benefits shall continue. For injuries on and after July 1, ~~2021~~ 2023, "material hindrance" is defined to include only compensable injuries causing a greater than sixty-five percent (65%) degree of functional impairment and/or disability. Any period of time for which the employee has received benefits for total incapacity shall not be included in the calculation of the three hundred and twelve-week (312) period.

(2) The provisions of this subsection apply to all injuries from Sept. 1, 1990, to July 1, ~~2021~~ 2023.

(b) (1) Where any employee's incapacity is partial and has extended for more than three hundred and twelve (312) weeks and the employee has proved an entitlement to continued benefits under subsection (a) of this section, payments made to these incapacitated employees shall be increased annually on the tenth (10th) day of May thereafter so long as the employee remains incapacitated. The increase shall be by an amount equal to the total percentage increase in the annual Consumer Price Index, United States City Average for Urban Wage Earners and Clerical Workers, as formulated and computed by the Bureau of Labor Statistics of the United States Department of Labor for the period of March 1 to February 28 each year.

(2) "Index", as used in this section, refers to the Consumer Price Index, United States City Average for Urban Wage Earners and Clerical Workers, as that index was formulated and computed by the Bureau of Labor Statistics of the United States Department of Labor.

(3) The annual increase shall be based upon the percentage increase, if any, in the Consumer Price Index for the month of a given year, over the index for February, the previous year. Thereafter, increases shall be made on May 10 annually, based upon the percentage increase, if any, in the Consumer Price Index for the period of March 1 to February 28.

(4) The computations in this section shall be made by the director of labor and training and promulgated to insurers and employers making payments required by this section. Increases shall be paid by insurers and employers without further order of the court. If payment payable under this section is not mailed within fourteen (14) days after the employer or insurer has been notified by publication in a newspaper of general circulation in the state it becomes due, there shall be added to the unpaid payment an amount equal to twenty percent (20%) of it, to be paid at the same time as, but in addition to, the payment.

(5) This section applies only to payment of weekly indemnity benefits to employees as described in subdivision (1) of this subsection and does not apply to specific compensation payments for loss of use or disfigurement or payment of dependency benefits or any other benefits payable under the workers' compensation act.

(c) No petitions for commutation shall be allowed or entertained in those cases where an employee is receiving benefits pursuant to this section.

§ 28-33-39. Transportation costs for medical examination.

The reasonable costs of transportation to and from the office of any examiner requested by the employer or of any impartial examiner appointed as provided in § 28-33-35 shall be charged to the employer and, if paid for by the employee, he or she shall be reimbursed in full for this expenditure by his or her employer, upon presentation of a receipt or other evidence of expenditure. The reasonable

cost of transportation that occurs on or after July 1, 2016, is the rate equal to the per-mile rate allowed by the Internal Revenue Service for use of a privately owned automobile for business miles driven, as from time to time amended, for a private motor vehicle or the reasonable cost incurred for transportation, from the employee's point of departure, whether from the employee's home or place of employment, and return.

§ 28-33-41. Rehabilitation of injured persons.

...

(d) The employer shall bear the expense of rehabilitative services agreed to or ordered pursuant to this section. If those rehabilitative services require residence at or near or travel to a rehabilitative facility, the employer shall pay the employee's reasonable expense for board, lodging, and/or travel. The reasonable cost of transportation on or after July 1, 2016, is the rate equal to the per-mile rate allowed by the Internal Revenue Service for use of a privately owned automobile for business miles driven, as from time to time amended, for a private motor vehicle or the reasonable cost incurred for transportation, from the employee's point of departure, whether from the employee's home or place of employment, and return.

...

§ 28-53-7. Payments to employees of uninsured employers.

(a) Where it is determined that the employee was injured in the course of employment while working for an employer who fails to maintain a policy of workers' compensation insurance as required by § 28-36-1 et seq., the uninsured employers fund shall pay the benefits to which the injured employee would be entitled pursuant to chapters 29 to 38 of this title subject to the limitations set forth herein.

(b) The workers' compensation court shall hear all petitions for payment from the fund pursuant to § 28-30-1 et seq., provided, however, that the uninsured employers fund and the employer shall be named as parties to any petition seeking payment of benefits from the fund.

(c) Where an employee is deemed to be entitled to benefits from the uninsured employers fund, the fund shall pay benefits for disability and medical expenses as provided pursuant to chapters 29 to 38 of this title except that the employee shall not be entitled to receive benefits for loss of function and disfigurement pursuant to the provisions of § 28-33-19.

(d) The fund shall pay cost, counsel and witness fees, as provided in § 28-35-32, to any employee who successfully prosecutes any petitions for compensation; petitions for medical expenses; petitions to amend a pretrial order or memorandum of agreement; and all other employee petitions; and to employees who successfully defend, in whole or in part, proceedings seeking to reduce or terminate any and all workers' compensation benefits; provided, however, that the attorney's fees awarded to counsel who represent the employee in petitions for lump sum commutation filed pursuant to § 28-33-25, or in the settlement of disputed cases pursuant to § 28-33-25.1, shall be limited to the maximum amount paid to counsel who serve as court-appointed attorneys in workers' compensation proceedings as established by rule or order of the Rhode Island supreme court.

(e) In the event that the uninsured employer makes payment of any monies to the employee to compensate the employee for lost wages or medical expenses, the fund shall be entitled to a credit for all such monies received by or on behalf of the employee against any future benefits payable directly to the employee.

(f) This section shall apply to injuries that occur on or after ~~January~~ July 1, 2017.

§ 42-16.1-19. Cost of legal and audit fees.

The director is hereby authorized and may in their discretion recover the reasonable cost of legal services and audit fees for services provided by in-house attorneys and/or other personnel of the department of labor and training or outside auditors and incurred by the department in matters pertaining to fraud investigations and examinations. Nothing in this section shall limit the power of the director to retain legal counsel to recover the costs of such legal counsel and auditors pursuant to other provisions of the general laws.

BILLS PASSING SECOND CHAMBER

There were no relevant workers compensation-related bills that passed the second chamber within the one-week period ending July 15, 2016.

BILLS PASSING FIRST CHAMBER

There were no relevant workers compensation-related bills that passed the first chamber within the one-week period ending July 15, 2016.

Contact Information

If you have any questions about the legislation or proposals mentioned, please contact the appropriate NCCI state relations executive (listed below) or a representative of your local insurance trade association.

State	State Relations Executive	Phone Number
IN, NC, SC, TN	Amy Quinn	803-356-0851
MO, NE, OK, SD	Carla Townsend	314-843-4001
HI	Carolyn Pearl	808-524-6239
AL, GA, KY, LA, MS	Cathy Booth	205-655-2699
FL, IA	Chris Bailey	850-322-4047
DC, MD, VA, WV	David Benedict	804-380-3005
AK, ID, MT, OR	Jessica Epley	503-892-8919
CT, ME, NH, RI, VT	Laura Backus Hall	802-454-1800
AZ, CO, NM, NV, UT	Maggie Karpuk	818-707-8374
AR, IL, KS, TX	Terri Robinson	501-333-2835
Federal Issues	Tim Tucker	202-403-8526

This report is informational and is not intended to provide an interpretation of state and federal legislation.