



SB 259

REVISING WORKERS' COMPENSATION AND OCCUPATIONAL HEALTH AND SAFETY ASSESSMENTS

BY REQUEST OF THE MONTANA DEPARTMENT OF LABOR & INDUSTRY

SPONSOR – SEN. BRUCE TUTVEDT SD 3

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BUSINESS & LABOR

EXHIBIT NO. 5
DATE 2-10-15
BILL NO. SB 259

SB 259 ensures that Montana continues to prioritize occupational health and safety for the benefit of Montana employers, workers, and so that Montana may continue to realize cost savings from decreasing workers' compensation rates. This bill is necessary because of the success of workers' compensation reform mandated by HB334 in 2011. This reform very effectively decreased workers' compensation costs. The National Council on Compensation Insurers (NCCI) credits the 22.4% reduction in benefit costs to the 2011 reform package. However, since the Department's occupational health and safety funding is also based on those declining benefit costs, their revenue has been declining and is now at 2006 levels. Without SB 259, the Department will no longer be able to meet statutory requirements, and employers will not receive the trusted and valuable support of the Safety and Health Bureau in their efforts to prevent workplace injuries and lower costs.

OVERVIEW OF DEPARTMENT'S POSITION

This bill increases the cap on the workers' compensation assessment paid by employers from up to 3% to up to 5% of workers' compensation benefits paid and also creates a separate safety assessment to be paid by employers. This revenue funds the administration and regulatory provisions in the Workers' Compensation Act and the Safety and Health Act that are performed by the Department.

This assessment pays for the functions that include:

- Workers' Compensation Court
- Collection and reporting of data on every claim filed in Montana
- Establishing and administering medical fee schedules, utilization and treatment guidelines, and independent medical reviews
- Review and approval of settlements
- Mediation services to resolve disputes over benefits
- Reopening of closed claims
- Safety education and outreach, such as, the SafetyFests, education of students entering the workforce, private and public consultations, employer technical assistance, public employer compliance with safety standards, mine inspections, and miner and contractor mine training.

The National Council on Compensation Insurers (NCCI) reported in 2014 that since 2008, benefit costs in Montana have declined by 42.4%. 22.4% of that decrease results from HB334. Montana's employers have benefitted from those decreased costs. However, since the Department's funding is also based on those declining benefit costs, their revenue has been declining and is now at 2006 levels. The funding is no longer sufficient to cover the costs of the authorized and required functions under the laws. **Although this bill increases the costs of the assessment to employers, it has little impact on the overall savings that employers have experienced since 2008 and expect to continue to see in the future.**

CONSEQUENCES OF NOT PASSING SB 259

Without this funding increase, the department will have to stop performing the safety functions authorized under the law and layoff safety employees. The department is a leader in safety education and outreach and has been instrumental in assisting employers with improving work place safety and prevention of injuries. The number one cost driver in our work comp system is the number of injuries that occur each year. NCCI estimates Montana could save \$115 million in benefit costs by reducing lost time injuries to the national average. For the last decade, Montana was ranked No. 1 or 2 in the nation with the highest injury rates. Montana currently ranks 4th highest in injury rates. Reducing or eliminating the Department's safety functions is counterproductive to addressing the injury rates.



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SUMMARY OF CHANGES OR ACTUAL AMENDMENT LANGUAGE

Section 1 – Removes the occupational safety acts from the administration fund; removes the penalties collected from the occupational safety acts from the fund; and increases the cap on the assessment from up to 3% to up to 5% of benefits paid in the preceding year.

Section 2 – Amends 39-71-435 to include a reference to the occupational safety and health fund in Section 8 of this bill.

Section 3 – Amends 39-71-1050 to include a reference to the occupational safety and health fund in Section 8 of this bill.

Section 4 – Changes the funding for the safety and health functions of the Department from the workers' compensation administration fund in Section 1 of this bill to the occupational safety and health fund in Section 8 of this bill.

Section 5 – Provides that penalties collected from public sector compliance inspections are to be deposited in the occupational safety and health fund in Section 8 of this bill.

Section 6 – Provides that expenses recovered as a result of a safety or industrial health consultation in mines other than coal mines are to be deposited in the occupational safety and health fund in Section 8 of this bill.

Section 7 – Provides that expenses recovered as a result of a safety or industrial health consultation in coal mines are to be deposited in the occupational safety and health fund in Section 8 of this bill.

Section 8 – Establishes an occupational safety and health administration fund assessment to employers to provide revenue for the lawful appropriation of the costs of the Department's safety and health functions authorized under Title 50, Chapters 71, 72 and 73. This assessment uses the same methodology as the workers' compensation administration assessment in Section 1 of this bill. This assessment is effective for costs on or after July 1, 2016.

Section 9 – Instructions for codification of Section 8 to be included in Title 50, Chapter 71.

Section 10 – Provides for Section 1 in this bill to be effective for the assessment due July 1, 2015.

Section 11 – Effective dates - Sections 10 and 11 of this bill are effective upon passage. The remainder of the bill is effective July 1, 2015.

