



## SUMMARY OF CURRENT SPRINGFIELD LEGISLATIVE ACTIVITY

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On January 11, 2011, the Illinois 96th General Assembly adjourned *sine die* on without presenting any versions of the workers' compensation bill for a vote on the floor of the House or the Senate. To that end, no amendments to the Workers' Compensation Act were enacted. On January 12, 2011, the new leadership of the State legislature under the 97th General Assembly convened.

The push continues to bring meaningful and effective workers' compensation reform to Illinois. As you will see, the most comprehensive legislation is Senate Bill 1349. In addition to this bill, there are five other bills worthy of note. The ISIA will continue to provide updates as they become available.

- I [SB 1349](#), sponsored by Sen. McCarter and co-sponsored by Sen. Brady, Sen. Dillard and Sen. McCann, this bill is an expansion and revision of SB 1066, which died in the last legislative session. SB 1349 consists of eight primary changes and/or revisions of the current Act:
- A Causation: Establishes "primary" cause as standard for determining compensability; eliminates the presumption of injuries for certain professions.
  - B Medical: Establishes employer-directed medical care allowing second choice of medical provider in certain circumstances.
  - C Medical: Creates a limited privacy waiver to allow exchange of specific information between a treating medical provider and the employer regarding an injury, services to be provided and back to work scenarios.
  - D Permanency: Caps Section 8(d)1 wage differential benefits at Social Security's retirement age. Allows an employer to inquire quarterly about the earnings of a beneficiary of a wage differential benefit allowing the employer to reopen a claim if there has been a "material" increase in the earnings of the beneficiary.
  - E Permanency: Requires objective findings of disability based on AMA guidelines.
  - F Medical expenses: Creates a Medicare-based medical fee schedule at an average of 160% of Medicare and makes other changes regarding payment for out of state care and implants.

G Medical expenses: Strengthens Utilization Review by giving the UR report a rebuttable presumption on reasonableness and necessity and requiring the cooperation of treating provider with UR.

H Accident: Creates a rebuttable presumption that an injured worker is intoxicated and therefore denied benefits if tested at .08 and above for alcohol and/or any illegal substance or refuses to be tested.

**Status of Bill:** As of February 23, 2011, this bill was referred to the Executive Committee for further consideration.

II [HB 1342](#), sponsored by Rep. Tryon, (R-Crystal Lake), is in response to the Illinois Supreme Court's 2010 decision in Interstate Scaffolding.

A In its simplest terms, HB 1342 would allow employers to terminate TTD and TPD benefits when an employee is terminated for cause.

B The legislation would require the employer to notify the Commission of the termination.

C The Commission would be empowered to hold hearings to determine if discharge was "for cause".

**Status of Bill:** As of February 14, 2011, this bill is assigned to the Labor Committee.

III [HB 76](#), sponsored by Rep. Jakobsson (D-Urbana). This bill addresses medical expenses and penalties.

A Requires that claimants be notified of the specific reason for a denial to pay medical expenses.

B If the specific reason is not given, then the claim is not given a rebuttable presumption that the employer is not responsible for payment of additional compensation if that denial or refusal to authorize complies with a utilization review program.

C Increases daily and total additional compensation allowed when an employer or his or her insurance carrier, without good and just cause, fail, neglect, refuse, or unreasonably delay the payment of medical or compensation benefits due.

**Status of Bill:** As of February 8, 2011, this bill is assigned to the Labor Committee.

IV [HB 1097](#), sponsored by Rep. Rose (R-Champaign). "Construction Coverage"

A Provides that a subcontractor under contract to a general contractor may elect to be covered under any policy of workers' compensation insurance insuring the contractor upon written agreement of the contractor, by filing written notice of the election, on a form prescribed by the Illinois Workers' Compensation Commission.

B Rep. Rose presented this bill last session as well as HB6226.

**Status of Bill:** As of February 14, 2011, this bill has been assigned to the Labor Committee.

[HB 1427](#), sponsored by Rep. Bradley (D-Marion). This narrowly-tailored proposal would impact police and firefighters. The proposed legislation would:

- C Increases the city population floor limiting the ability of police officers and fire fighters to be considered "employees" under the Act.
- D Provide that a member of a police department in any city where the population exceeds 500,000 is not considered an "employee" under the Act.
- E Provide that a member of a fire department in any city where the population exceeds 500,000 is considered an "employee" under the Act *only with respect to claims* for any serious and permanent disfigurement.
- F Members of a fire department in a city where the population exceeds 500,000 are eligible for compensation for serious and permanent disfigurement only where the disfigurement results from burns.

**Status of Bill:** As of February 15, 2011, this bill was assigned to the Labor Committee.

V [SB 101](#), sponsored by Sen. Holmes (D-Aurora). Like HB 1427. This proposed legislation again impacts a narrow cross-section of employees. That being said, its impact could be tremendous. This bill provides that:

- A Any condition or impairment of health of a firefighter, emergency medical technician, or paramedic that results directly or indirectly from Parkinson's disease resulting in any disability to the employee
  - 1 shall be rebuttably presumed to arise out of and in the course of the employee's firefighting, EMT, or paramedic employment, **and**
  - 2 shall be rebuttably presumed to be causally connected to the hazards or exposures of the employment,
  - 3 There may be exceptions "as otherwise specified".
- B This legislation would be added under the Occupational Diseases Act.

**Status of Bill:** As of February 9, 2011, this bill was assigned to the Insurance Committee.