

FISCAL NOTE
Requested by Legislative Council
01/11/2021

Bill/Resolution No.: HB 1271

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2019-2021 Biennium		2021-2023 Biennium		2023-2025 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2019-2021 Biennium	2021-2023 Biennium	2023-2025 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

see attached

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

see attached

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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WORKFORCE SAFETY & INSURANCE
2021 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: HB 1271

BILL DESCRIPTION: Mental-Mental/Employer Immunity as it relates to COVID-19

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its consulting actuaries, The Burkhalter Group, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation makes a mental injury arising from a mental stimulus compensable and outlines employer immunity as it relates to COVID-19.

FISCAL IMPACT:

This legislation is not quantifiable due to insufficient data to permit a comprehensive evaluation of the potential rate level and reserve impact of this proposed legislation. However, due to the extremely expansive nature of this legislation, WSI anticipates that, if passed in its present form, the legislation will act to significantly increase both rates and reserves. Currently, workplace psychiatric injuries are compensable only if caused by a physical injury and the physical injury is determined to be 50% of the cause of the condition and the condition did not pre-exist the work injury. Further, a mental injury arising from a mental stimulus is not a compensable injury.

The proposed legislation eliminates all the above criteria and specifically includes traumatic event(s) or episodes of high work-related stress or anxiety likely to result in an injury as compensable mental injuries. Under the proposed language, any employee perceived traumatic event or high-stress/anxiety producing situation in the workplace, such as any adverse employment action or work conflict, could be deemed compensable mental injuries. It will be very difficult to determine on an objective basis when entitlement to benefits may conclude in these claims.

Prior to the 2015 legislative session, Sedgwick was selected by the State Auditor's Office to conduct the 2014 Performance Evaluation of WSI. Element Eight of this study was a review of providing coverage for Post-Traumatic Stress Disorder (PTSD). The analysis was limited to three scenarios: (1) first responders; (2) victims of violent crimes; and (3) witnesses to sudden and extraordinary events in the workplace. The range of the annual additional costs of providing coverage in these circumstances was very broad, ranging from a low of \$1.2 million to a high of \$56.6 million.

As detailed in the interim study, approximately one-half of the states do not cover mental injuries where there is no physical injury or cover mental injuries where there is no physical injury in very limited number of specific exceptions. The other half of the states cover mental injuries with fewer restrictions. The only example of very broad mental health-related workers' compensation claim experience we could locate was some anecdotal information from Australia, specifically Victoria. It was reported that \$273 million was paid out in 2013-14 in Victoria alone for workplace related stress claims. The mental health-related complaints have become Victoria's third leading workplace injury.

Recently, 2020 proposed legislation in Ohio would make first responders eligible for workers' compensation benefits if they have been diagnosed with work-related PTSD. Under current law, employees are not eligible for benefits under the state's workers' compensation law for PTSD unless it stems from a "compensable injury". If approved as written, it is estimated by the Legislative Service Commission that annual PTSD claims and costs to the workers' compensation system would increase approximately \$44 million in the first year.

Minnesota has offered PTSD workers' compensation benefits since 2013. According a recent newspaper article, Dan Greensweig, director of the League of Minnesota Cities reported that in 2020 PTSD was estimated to be about 18% of workers' compensation costs, putting PTSD behind only claims for sprains and strains for workers in the 783 cities in the League trust.

DATE: January 19, 2021