

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Taylor, JG      DATE TYPED 2/10/04      HB 562

SHORT TITLE Workers' Comp Medical Exams & Worker Status      SB \_\_\_\_\_

ANALYST Gilbert

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			NFI		

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Worker's Compensation Administration (WCA)

### SUMMARY

#### Synopsis of Bill

House Bill 562 grants authority to a workers' compensation judge, by the judge's own motion, to require independent medical examinations of workers.

Additionally, HB 562 specifies that employees cannot be on temporary total disability status with an employer of injury, while also working for a different employer and earning their pre-injury wages.

Also, the bill allows greater freedom of contact between employers (and their insurance adjusters) and the health care providers who are treating injured workers.

#### Significant Issues

According to the Worker's Compensation Administration (WCA), this bill supercedes the results of three appellate opinions in workers' compensation law.

## **ADMINISTRATIVE IMPLICATIONS**

HB 562 would impact various workers' compensation claims handling issues, but should not have significant impact on WCA claims adjudication.

## **OTHER SUBSTANTIVE ISSUES**

Another substantive issue deals with broadening access to information, by allowing any party to a claim to contact the health care provider for the purpose of determining a worker's disability status, work restrictions, or treatment plan. According to the Attorney General's Office (AGO), although the new language states that a party shall not attempt to coerce a health care provider, by broadening the access to this information to any party to the claim, it provides a fertile ground for disputes between the health care provider and the inquiring party with regard to the disability status, work restrictions and treatment plan of the worker.

The Workers' Compensation Advisory Council voted unanimously to oppose this bill on February 5, 2004. Although there is some support with regard to each of the issues contained in the bill within the Council, the Council did not feel that it was appropriate to conjoin these issues in one piece of proposed legislation. The Council supported them when presented as separate bills, but is opposed to the three changes being placed in one bill.

According to the AGO, it should be noted that pursuant to NMSA 1978, § 12-2A-10(A), any later-enacted statute amending the same statutory sections in this bill would govern over the provisions contained herein. See *State v. Smith*, Ct. App. Nos. 24,253, 24,254, and 24,258 (filed 01/12/04), pet. for cert. pending.

**RLG/lg**