

# SENATE BILL REPORT

## SSB 5701

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As Passed Senate, February 12, 2022

**Title:** An act relating to determining monthly wages for workers' compensation.

**Brief Description:** Determining monthly wages for workers' compensation.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Nguyen, Frockt, Hasegawa, Nobles and Wilson, C.).

**Brief History:**

**Committee Activity:** Labor, Commerce & Tribal Affairs: 1/17/22, 1/20/22 [DP-WM, DNP, w/oRec].

Ways & Means: 2/03/22, 2/07/22 [DPS, DNP, w/oRec].

**Floor Activity:** Passed Senate: 2/12/22, 37-12.

### Brief Summary of First Substitute Bill

- Requires that the monthly wage for worker's compensation purposes for any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution be computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed.
- Provides that "other employees" does not include any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution.
- Requires the Department of Labor and Industries to submit a report to the Legislature detailing the number of claims which were impacted by this act from July 1, 2022, to June 30, 2024.

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Signed by Senators Keiser, Chair; Conway, Vice Chair, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; King, Ranking Member; Rivers, Robinson and Saldaña.

**Minority Report:** Do not pass.

Signed by Senator Schoesler.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Braun.

**Staff:** Susan Jones (786-7404)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5701 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Billig, Carlyle, Conway, Dhingra, Hasegawa, Hunt, Keiser, Mullet, Pedersen, Van De Wege and Wellman.

**Minority Report:** Do not pass.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Gildon, Muzzall, Wagoner and Warnick.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Braun and Rivers.

**Staff:** Susan Jones (786-7404) and Sarian Scott (786-7729)

**Background:** Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to workers' compensation benefits, which may include medical, temporary time-loss, vocational rehabilitation benefits, and permanent disabilities benefits. Occupational disease means a "disease or infection as arises naturally and proximately out of employment under the mandatory or elective adoption provisions of this title." The Department of Labor and Industries administers the state's workers' compensation system.

The monthly wages the worker was receiving from all employment at the time of injury is the basis upon which compensation is computed. In cases where a wage has not been fixed or cannot be reasonably and fairly determined, the monthly wage is computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed.

For purposes of minimum wage laws, the term "employee" does not include any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or

rehabilitative institution.

**Summary of First Substitute Bill:** The monthly wage for workers' compensation purposes for any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution must be computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed. Other employees do not include any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution.

By December 1, 2024, the Department of Labor and Industries must submit a report to the Legislature that details the number of claims which were impacted by this act from July 1, 2022, to June 30, 2024.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Labor, Commerce & Tribal Affairs):** PRO: In the Legislature, we often work on bills that impact millions of lives in Washington. This bill would have impacted less than two dozen individuals since 2016. To those individuals, the change would have had a great impact on their lives. A person worked while being incarcerated and was injured while working, rendering them unable to work. Wages for working while incarcerated are pennies per hour. When they were released, that rate was used for their workers' compensation calculation, amounting to a few hundred dollars per month. That is not enough to live on and may lead to other hardships. This helps persons transition from incarceration.

Washington's workers' compensation system is designed to sustain workers when they are injured in the course of their work and to ensure they can meet their financial obligations to their families and community. The amount paid in benefits is based on their recent wages and work patterns. Because residents and inmates in state institutions are often paid extremely low wages, these benefits are less likely to help them meet their needs. This is especially important in long-term situations when they are no longer incarcerated. The benefits should be sufficient to allow them to live in an economy outside of the state institution.

**Persons Testifying (Labor, Commerce & Tribal Affairs):** PRO: Senator Joe Nguyen, Prime Sponsor; Joe Kendo, Washington State Labor Council, AFL-CIO.

**Persons Signed In To Testify But Not Testifying (Labor, Commerce & Tribal**

**Affairs):**

OTHER: Tammy Fellin.

**Staff Summary of Public Testimony on Original Bill (Ways & Means):** *The committee recommended a different version of the bill than what was heard.* None.

**Persons Testifying (Ways & Means):** No one.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.