

SENATE BILL REPORT

SB 5548

As Reported by Senate Committee On:
Labor & Commerce, February 21, 2025
Ways & Means, February 28, 2025

Title: An act relating to workers' compensation benefits.

Brief Description: Concerning workers' compensation benefits.

Sponsors: Senator Shewmake.

Brief History:

Committee Activity: Labor & Commerce: 2/07/25, 2/21/25 [DPS-WM, DNP].
Ways & Means: 2/26/25, 2/28/25 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- Modifies the percentages of wages an injured worker may receive for workers' compensation benefits.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5548 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Saldaña, Chair; Conway, Vice Chair; Alvarado, Ramos and Stanford.

Minority Report: Do not pass.

Signed by Senators King, Ranking Member; MacEwen and Schoesler.

Staff: Susan Jones (786-7404)

SENATE COMMITTEE ON WAYS & MEANS

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.

Majority Report: That Second Substitute Senate Bill No. 5548 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Pedersen, Riccelli, Saldaña, Wellman and Wilson, C..

Minority Report: Do not pass.

Signed by Senators Gildon, Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke, Braun, Muzzall, Wagoner and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senator Torres, Assistant Ranking Member, Operating.

Staff: Kimmy Eide (786-7471)

Background: When the Department of Labor and Industries (L&I) determines there is a permanent or temporary total disability from a workers' compensation injury, a worker receives monthly payments during the period of the disability, as follows:

<u>Unmarried Workers</u>	<u>Percentage of the worker's wages</u>	<u>Married Workers</u>	<u>Percentage of the worker's wages</u>
Unmarried with no children	60%		
Unmarried with 1 child	62%	Married no children	65%
Unmarried with 2 children	64%	Married with 1 child	67%
Unmarried with 3 children	66%	Married with 2 children	69%
Unmarried with 4 children	68%	Married with 3 children	71%
Unmarried with 5 or more children	70%	Married with 4 children	73%
		Married with 5 or more children	75%

A married worker receives an additional \$10 per month when the worker is receiving the minimum monthly payments for a permanent or temporary total disability.

The term "wages" is defined in statute and includes the employer's payment or contributions, or appropriate portions thereof, for health care benefits unless the employer continues ongoing and current payment or contributions for these benefits at the same level as provided at the time of injury.

The term "child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury, and dependent child in the legal custody and control of the worker, all while under the age of 18 years, or under the age of 23 years while permanently enrolled at a full time course in an accredited school, and over the age of 18 years if the child is a dependent as a result of a disability.

If an injured worker or the injured worker's surviving spouse does not have legal custody of a child for whom payments are required to be made, the payments must be made to the legal custodian, or custodians, of the child for the periods of time after L&I has been notified of the fact of the legal custody.

Summary of Bill (Second Substitute): For claims with a date of injury or disease manifestation on or after July, 1, 2026, if there is a permanent or temporary total disability from a workers' compensation injury, a worker will receive the following percentages of the worker's wages:

<u>Worker's status</u>	<u>Percentage of the worker's wages</u>
Unmarried with no children	60%
Unmarried with one child or married with no children	65%
Unmarried with two children or married with one child	67%
Unmarried with three children or married with two children	69%
Unmarried with four children or married with three children	71%
Unmarried with five children or married with four children	73%
Unmarried with six or more children or married with five or more children	75%

The payments to be made to the legal custodian, or custodians, of a worker's child will be 2 percent of the worker's wages. The payment to the worker or the worker's surviving spouse will be reduced by the amount of the payments to be made to the legal custodian, or custodians, of a worker's children.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Reinstates the current law that the employer's payments or contributions for health care benefits are included in the worker's wages for the calculation of the monthly workers' compensation benefit, which is a percentage of wages from 60 percent to 75 percent, rather than the worker receiving 100 percent of the employer's payments or contributions for health care benefits.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

- Clarifies that the new provisions of the bill related to employer's payments for health care benefits and changes to the percentages of wages based on the worker's status apply to claims with a date of injury or disease manifestation on or after July 1, 2026, rather than claims filed on or after July 1, 2026.
- Removes the exclusion of the employer's payment for health benefits for the payment to legal custodians of a worker's child.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill takes effect on July 1, 2026.

Staff Summary of Public Testimony on Original Bill (Labor & Commerce): *The committee recommended a different version of the bill than what was heard.* PRO: The current statute does not reflect today's family structures or the long-term health care needs of workers and their families. Losing health care during a health episode is not ideal. The bill addresses these gaps by ensuring workers receive full compensation for their health care benefits, helping to maintain coverage for ongoing medical needs and not just for work-related injuries. Injured workers will not have to change providers or disrupt care for themselves and their families.

When workers are injured, employers can choose to continue health care benefits or terminate health insurance coverage. If the employer chooses to end health care coverage, they're still responsible for paying 60 to 75 percent of the cost to the injured worker as a part of time-loss benefits. The worker and their family must either go without insurance or pay exorbitant rates to buy it under Cobra. The loss of wages will effectively mean the loss of family health care. That's because they will not be able to pay for health care, their copays, or other prescription drug coverage.

This will not be a big cost burden to employers, requiring them to pay the full cost of health insurance will help injured workers heal and get back to work quicker, which is the goal for both the employer and the worker.

The current workers' compensation system provides limited protection for workers. Employers have choices on how to address claims, such as offering light duty assignments, keeping employees on salary, or time loss compensation. However, time loss only pays partial wage replacement, leaving workers with longer term injuries vulnerable to losing their health care coverage.

The bill also modifies the out-of-date percentages for workers with a spouse or a child. A single parent probably needs more money than two adults because of childcare and all the additional child expenses. The bill provides that whether the worker has a spouse or a child, the worker gets the same amount.

CON: Small businesses struggle to afford health insurance. Coverage has fallen from a historic average of 42 to 45 percent down to 31 percent coverage rate. This bill would be a disincentive for small employers to continue offering health insurance.

The benefit should be paid from the medical aid fund. There should be a way that allows the insurance payment to get to the insurance provider. Sending the worker a combined check is an invitation for errors. Whether it is an inadvertent misuse of those dollars for an unintended purpose or simply a delaying payment to the trust or to the insurance company, it is an unnecessary hurdle for the worker and their family.

There are extreme differences, not only in an employer's ability to even find or pay for health insurance for employees, but also the discrepancies in how much those employers pay. Large employers pay less per employee than a smaller or mid-size employer does. This bill creates an inherent unfairness between employees and doesn't do anything to make sure that they have health care coverage, which is the intent of the bill.

We have concerns about family size. There's no indication of the household's wealth. The bill discriminates against a worker with a smaller family size and less ability to get health care coverage for their family than a worker who maybe has more children but has a alternative coverage available to them.

The timing of the legislation is concerning with the budget deficit and also other increases of workers' compensation due to prior legislation, such as the L&I time-loss increase from 14 to 7 that includes the first three days. The results of those changes won't show until all three rating years have occurred in 2029. Also, pension frequency has increased dramatically, even 21 percent for the PTSD firefighters. Their rate increase was 32 percent but the state capped it at 15 percent and subsidized the rest to all the employers. PTSD is going to be expanded to nurses and first care responders.

When the legislature set the goal to reduce long-term disability rates by creating the State Work Program in 2011, the rate was 16.1 percent. It dropped to its lowest of 13 percent in 2019, but the trend has reversed; reaching 16 percent in 2024, erasing a decade of progress. 73 percent of spending goes to disability payments, the highest percentage in the nation. The national median is only 47 percent. California is 49 percent and Oregon is 50 percent. Per claim amounts, now \$1.4 million, have surged by 70 percent since 2015 and are rising. We need to restore our system's sustainability.

Persons Testifying (Labor & Commerce): PRO: Senator Sharon Shewmake, Prime

Sponsor; Rachel Hamar, Washington State Association for Justice; Minna Long, Washington State Building & Construction Trades Council; Chris Ellis, Bricklayers and Allied Craftworkers Local 1; Ray Dumas, OPCMIA Local 528; Joe Kendo, Washington State Labor Council, AFL-CIO; Brenda Wiest, Teamsters 117.

CON: Patrick Connor, NFIB; Carolyn Logue, Associated Builders & Contractors Inland Pacific Chapter; Lauren Gubbe, Associated General Contractors of Washington; Rose Gundersen, WA Retail Association.

Persons Signed In To Testify But Not Testifying (Labor & Commerce): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill addresses an equity issue present in the current percentages for workers compensation. Current law unfairly disadvantages single parents who would receive less in workers compensation based on their marital status. Workers contribute 25 percent of the costs of workers compensation, and this bill will create equity across diverse family compositions.

CON: This bill will increase benefits paid through workers compensation, which will increase premiums paid by businesses, and will place an unfair burden on business owners. The fiscal impact of this bill is unknown, and the Legislature should take time to better understand the costs before this bill is passed.

Persons Testifying (Ways & Means): PRO: Minna Long, Washington State Building & Construction Trades Council; Ray Dumas, OPCMIA Local 528; Daniel Goodman, Washington State Association for Justice; Joe Kendo, Washington State Labor Council, AFL-CIO.

CON: Patrick Connor, NFIB; Carolyn Logue, Associated Builders and Contractors Inland Pacific Chapter.

Persons Signed In To Testify But Not Testifying (Ways & Means): PRO: Sean Scholes.

CON: TaraLyn Fray; Rosemarie Dorn, concerned citizen; Rexine Bennett.