

Labor Proposals for 2023 Agreed Bill

1. **Permanent Partial Disability Benefit Maximum Rate:** Increase of \$20 per year from the rate established in negotiations for the 2021 agreed bill, which would result in a maximum rate in 2023 of \$450 per week. For injuries after 1/1/24 the maximum rate would be \$470. Provide for automatic \$20 increases in the maximum PPD rate per year until 2030 without the need for inclusion in every agreed bill.
2. **Employer Safety Violation:** Amend Wis. Stat. § 102.57 to state as follows: "If injury is caused by the failure of the employer to comply with any statute, rule, safety standard, or order of the department of safety and professional services, or of the federal Departments of Labor, Health or Transportation or its agencies, where the employer is subject to safety regulation from those federal Departments or agencies, compensation and death benefits provided in this chapter shall be increased by 15 percent of total compensation, medical expense and death benefits paid, but the total increase may not exceed \$15,000. Failure of an employer to reasonably enforce compliance by employees with any statute, rule, safety standard, or order of the department of safety and professional services, or the federal Departments of Labor, Health or Transportation or its agencies, where the employer is subject to safety regulation from those federal Departments or agencies, constitutes failure by the employer to comply with that statute, rule, safety standard or order."
3. **Death Benefits:** Revise the death benefit statutes to eliminate the concept of dependency. Death benefits shall be payable to surviving spouses, children, siblings, parents, and other next-of-kin in a manner similar to probate/estate law.
4. **Permanent Total Disability Supplemental Benefits:** Six-year bump in eligible dates/rates. Current law provides for those injured prior to 1/1/2003 a supplement to max rate of \$669. A six-year bump would take it to injuries prior to 1/1/2009 and increase the maximum benefit to \$831. Allow supplemental benefits to injured workers who are receiving compensation for permanent total disability from the Second Injury Fund.

5. **Scholarships:** Provide for a statutory scholarship benefit for injured worker's children, when a parent's injury causes death. Scholarship amount for each child would be for the tuition, room and board, and book expense for up to four years at a Wisconsin State University System school, Wisconsin State Technical College System, or certified apprenticeship program of the child's choice.
6. **Statute of Limitations extended by payment of medical expense.** Current law, Wis. Stat. § 102.17(4), provides for a statute of limitations of 6 years for traumatic injuries, measured from the date of injury or the last payment of primary compensation, whichever is later. Payment of medical expense currently does not extend the statute of limitations. This proposal would add the date of the last payment of medical expense as an additional measurement point for the start of the statute of limitations.
7. **Shoulder Replacement, Spinal Fusions:** Amend Wis. Stat. § 102.17(4) to include shoulder replacement, reverse shoulder replacement, as well as spinal fusions as an additional serious traumatic injury with no statute of limitations.
8. **Increase Release of Unaccrued Benefits in Compromise Agreements:** Increase the amount of the unaccrued compensation that may be released to the injured worker without restriction in a compromise settlement pursuant to DWD 80.03(1)(d) from \$10,000 to \$50,000.
9. **Injured Worker Choice of Third-Party Settlements:** Amend Wis. Stat. § 102.29 to change the law from the employer having an equal voice in whether a settlement offer should be accepted to the employee having the right to control the settlement or no settlement decision.
10. **Indexing of Permanent Total Disability Rate:** Indexing with 6-year lag. For injuries beginning 1/1/24, index weekly benefits for permanent total disability to the rate in effect at the time the benefit accrues for periods more than six years after the date of injury.
11. **Posting of Injured Worker WC Rights:** Require all employers to display a DWD approved poster of WC employee rights at the workplace, including information on opioids and alternative treatments, or on the company's employee-accessible website.
12. **Continuation of Health Care Coverage:** If during the period of temporary disability an employer fails to continue to provide ongoing group health care

coverage for an injured worker, or the injured worker and his dependents if such coverage was provided as of the time of injury, the temporary total disability rate shall be expanded in an amount equal to 100% of the employer contribution for such group health care that the worker (and his dependents, if applicable) had as of the date of injury. In such a circumstance, the maximum TTD rate does not apply to cap TTD benefits.

13. **Loss of Earning Capacity for Scheduled Injuries:** If a worker suffers a scheduled injury, and if retraining has been attempted but fails to fully restore the injured worker's pre-injury earning capacity, or retraining is not feasible for the injured worker, allow a claim for loss of earning capacity in the same manner as currently allowed for unscheduled injuries.
14. **Limit Number of Medical Record Review Reports.** Under current law, an employer or worker's compensation carrier may commission an unlimited number of medical record reviews by medical providers, and those reports are not required to be disclosed to claimants. Amend Wis. Stat. § 102.13 to provide that an employer or carrier may only obtain a medical record review with either the provider who has or will later conduct an IME pursuant to Wis. Stat. §102.13(1)(a), or with one provider other than a provider who performs an IME pursuant to Wis. Stat. § 102.13(1)(a); that such reports must be disclosed to claimants within a reasonable time of receipt by the employer or carrier; and that record reviews are limited in any event to one every six months, as are IMEs.
15. **Opioids:** See the attached proposal on opioids and alternative treatments.
16. **Communicable Disease Causation Presumption for Certain Occupations:** Extend Wis. Stat. § 102.03(6) in three ways: A) To apply to public-facing essential workers [see attached list] in addition to "first responder" as that term is already defined in the statute; B) To apply to any employee whose employer has had 5 or more employees contract an epidemic virus or bacterium; C) To apply indefinitely with regard to epidemic viruses or bacterium. For purposes of this section, "epidemic" shall be defined as a virus or bacterium that spreads easily and quickly, and affects or tends to affect a disproportionately large number of individuals within a population, community or region at the same time.
17. **PTSD Coverage for Emergency Medical Responders:** Same proposal as Department Proposal 3.

Labor reserves the right to amend or add to these proposals as may be necessary during the Agreed Bill process.