



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 1387

PRINTERS NO. 1791

PRIME SPONSOR: E. Nelson

### COST / (SAVINGS)

FUND	FY 2020/21	FY 2021/22
Uninsured Employers Guaranty Fund	\$0	See "Fiscal Impact"

**SUMMARY:** Amends the Workers Compensation (WC) Act (Act 338 of 1915) providing for additional documentation in order to qualify for a wage-loss benefit from the Uninsured Employer Guaranty Fund (UEGF). This legislation would take effect in 60 days.

**ANALYSIS:** This legislation amends the WC Act to eliminate the ability of a UEGF claimant to get a wage-loss benefit based on the claimant's testimony alone. If the claimant's testimony (regarding the amount of his wages) is found credible, it will have to be accompanied by another form of evidence allowed under current law.

A claimant's testimony may demonstrate eligible proof, if found credible by the judge, if accompanied by an affidavit from the claimant swearing to all of the following:

- The claimant worked for the uninsured employer for fewer than 30 days.
- The claimant's occupation, amount of wages and hours worked for the uninsured employer.
- The reasons that the claimant cannot provide any additional evidence of the amount of the claimant's wages.
- Information about the uninsured employer, including the name of the employer and the names of any individuals known to the claimant who supervised or managed the claimant's work, along with any other identifying information for those individuals of which the claimant is aware.

The legislation requires the Department of Labor and Industry (DLI) make reports as follows:

- If DLI has reasonable cause to suspect that the claimant or uninsured employer has not reported, has underreported, or is delinquent in any federal or state tax, DLI must make a report to the appropriate agency within 30 days and cooperate with any resulting investigation.
- If DLI has reasonable cause to suspect that an uninsured construction industry employer has misclassified an employee in violation of the Construction Workplace Misclassification Act, DLI will make a report to the Bureau of Labor Law Compliance for an investigation.

- DLI shall investigate the information provided in the affidavit and the following shall apply:
  - If DLI finds evidence of material misstatements by the claimant, DLI shall submit the evidence to the workers' compensation judge and make a report to the appropriate district attorney
  - If DLI has reasonable cause to suspect that the uninsured employer has violated any other Federal or state law, L&I shall make a report with the applicable Federal or state agency.

**FISCAL IMPACT:** According to the Department of Labor and Industry, from September 2017 and April 2021 (3 years, 7 months), there were 257 UEGF claims with a wage-loss benefit, and 133 or 51.8% of those had no proof of wages other than a claimant's testimony. Those 133 claims had total indemnity paid by the UEGF of almost \$8.1 million or roughly \$2.3 million per year. However, there is no way to estimate the savings as a result of this legislation because the Department has no way to predict how many claims without proof of wages/affidavits would hit the UEGF in the future.

**PREPARED BY:** Tim Rodrigo  
House Appropriations Committee (R)

**DATE:** June 14, 2021

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*