

Date of Hearing: June 28, 2023

ASSEMBLY COMMITTEE ON INSURANCE

Lisa Calderon, Chair

SB 631 (Cortese) – As Amended May 18, 2023

SENATE VOTE: 31-8

SUBJECT: Workers' compensation: gender equity comparative analysis

SUMMARY: This bill would, upon appropriation, require the Division of Workers' Compensation (DWC) and the University of California (UC), Berkeley to conduct a comparative analysis to examine differences in workers' compensation benefits provided to employees of different genders. Specifically, **this bill:**

- 1) Requires the analysis to include:
 - a) A comparison between the genders in different industries;
 - b) Monetization of the value of compensation;
 - c) The rate at which claims are denied, and;
 - d) Any differences in compensation benefits, excluding medical treatment.
- 2) Requires the analysis to be submitted 6 months after its completion.
- 3) Requires the analysis to be submitted pursuant to Section 9795 of the Government Code.

EXISTING LAW:

- 1) Establishes DWC within the Department of Industrial Relations and charges it with monitoring the administration of workers' compensation claims and providing administrative and judicial services to assist in resolving disputes that arise in connection with claims for workers' compensation benefits. (Labor Code Sections 3200 et. seq.)
- 2) Creates the Commission on Health and Safety and Workers' Compensation (CHSWC), a joint-labor management body, to examine the health and safety and workers' compensation systems in California and recommend administrative or legislative modifications to improve their operation. (Labor Code Section 75)
- 3) Prohibits any employer that pays an employee less than their counterpart of the opposite sex for substantially similar work when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, except where an employer can demonstrate a bona fide factor other than sex. (Labor Code Section 1197.5)
- 4) Requires any report required or requested by law to be submitted by a state or local agency to the Members of either house of the Legislature, to be submitted as a printed copy to the Secretary of the Senate, as an electronic copy to the Chief Clerk of the Assembly, and as an electronic or printed copy to Legislative Counsel. Each report shall include a summary of its contents, not to exceed one page in length. If the report is submitted by a state agency, that agency shall also provide an electronic copy of the summary directly to each Member of the appropriate house or houses of the Legislature. Notice of receipt of the report shall also be

recorded in the journal of the appropriate house or houses of the Legislature by the secretary or clerk of that house. (Government Code Section 9795)

FISCAL EFFECT: Unknown

COMMENTS:

1) *Purpose.* According to the author:

Gender equity is a dire issue that affects workers across California. Women are disproportionately affected by workplace injuries and illnesses, yet they often face barriers to receiving the benefits they are entitled to under the law. We must ensure that our workers' compensation system is fair and equitable for all workers, regardless of gender. Moreover, we need to address the root causes of gender inequity, in workers' compensation, considering claim denial, and professions historically dominated by a specific gender. Though the need is apparent, quantifying these inequalities is vital to igniting reform.

2) *CHSWC.* CHSWC was specifically created to examine and study issues like the one proposed in this bill. According to their website, "CHSWC is a joint labor-management body created by the workers' compensation reform legislation of 1993. CHSWC is charged with examining the health and safety and workers' compensation systems in California and recommending administrative or legislative modifications to improve their operation. CHSWC was established to conduct a continuing examination of the workers' compensation system and of the state's activities to prevent industrial injuries and occupational illnesses and to examine those programs in other states."¹ CHSWC is comprised of eight members: four appointed by the Governor, two appointed by the Senate Rules Committee, and two appointed by the Speaker of the Assembly. Four members represent the employee community and four represent the employer community.

3) *UC Berkeley Labor Center.* The UC Berkeley Center for Labor Research and Education (Labor Center), founded in 1964, is a public service and outreach program of the Institute for Research on Labor and Employment. According to their website: "The Labor Center carries out research on topics such as job quality and workforce development issues, and we work with unions, government, and employers to develop innovative policy perspectives and programs. We also provide an important source of research and information on unions and the changing workforce for students, scholars, policymakers and the public."² Unlike CHSWC, which was established to consider the perspectives of both labor and management, the Labor Center's focus is to support the labor movement and "educate a diverse new generation of labor leaders."

Having the Labor Center conduct the study, and not CHSWC, could impact the perception of any results. However, the author's office has clearly expressed their reasons for having the Labor Center conduct the study, including the Labor Center's experience and expertise in the subject matter. Regardless, the information the study in this bill requests could be helpful in

¹ <https://www.dir.ca.gov/chswc/chswc.html>

² <https://laborcenter.berkeley.edu/about/>

future discussions related to whether gender inequities in the workplace also materialize in the workers' compensation system.

- 4) *Arguments in Support.* The California Applicants' Attorneys Association, the sponsor of this bill, note that "This bill is consistent with other legislative efforts supported by CAAA to reduce, and ultimately eliminate, gender bias in the workers' compensation system...the employer is required by law to pay for workers' compensation benefits. These benefits partially replace wages lost while recovering from a work injury, and help an employee return to work. Under current law, these benefits are based on the individual workers salary. Since there is a gender pay gap, women receive lower benefits than their white male counterparts."
- 5) *Arguments in Opposition.* The American Property Casualty Insurance Association, Association of Claims Professionals, California Association of Joint Powers Authorities, and the California Coalition on Workers' Compensation all have an "oppose unless amended/support if amended" position on this bill. The primary amendment these organizations seek is for CHSWC to conduct the study. They write that amending the bill to have CHSWC conduct the study proposed by the bill would be a "more objective collaboration and this amendment would be consistent with policy already established by the legislature."
- 6) *Prior Legislation.*

AB 1209 (Gonzalez Fletcher) of 2017 would have required employers of 500 or more employees in California to collect information on gender wage differentials for exempt employees and board members and submit the information to the Secretary of state for publication on its website. This bill was vetoed by Governor Brown.

REGISTERED SUPPORT / OPPOSITION:

Support

California Faculty Association

Opposition

American Property Casualty Insurance Association

Association of Claims Professionals

Cal Chamber

California Association of Joint Powers Authorities (CAJPA)

California Coalition on Workers Compensation

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