



OFFICE OF THE PEOPLE SENATOR RÉGINE BISCOE LEE

I MINA'TRENTAI SINGKO NA LIHESLUTURAN GUĀHAN
35TH GUAM LEGISLATURE

COMMITTEE ON RULES • COMMITTEE ON FEDERAL AND FOREIGN AFFAIRS, TELECOMMUNICATIONS, TECHNOLOGY AND LABOR

FOR IMMEDIATE RELEASE

February 4, 2020

WORKERS' COMPENSATION IMPROVEMENTS APPROVED

Legislature passes first update to needed lifeline in 30 years

(Hagåtña, Guam) – New updated payment rates and modernized adjudication processes will restore the promise of Workers' Compensation. Today, the Guam Legislature took one more meaningful step toward this goal by passing Bill No. 200-35 (COR) and Bill No. 201-35 (COR), both authored by Senator Régine Biscoe Lee.

"This safety net is for the families of workers who are injured or die on the job, but for far too long, decades-old rates were paying for today's costs," Senator Lee said. *"The reforms the Legislature passed today brings our island closer to restoring a promised lifeline, in a way that is as fair and just to all sides of Workers' Compensation claims."*

Fair rates, automatically updated

Bill No. 200-35 (COR) provides for the first increase in compensation rates in 30 years. The majority of the increases directly reflect inflation over the years—meaning they are the 1988 amounts converted into 2020 dollars. The measure would also create a provision to automatically adjust Workers' Compensation payout guidelines whenever the local minimum wage increases. This will ensure public and private sector employees never again have to wait decades for fair rates, and businesses never again have to face infrequent, substantial changes to this employer-provided benefit.

Modernized commission, penalties for violations

Bill No. 201-35 (COR) modernizes the Workers' Compensation Commission. The measure:

- Imppanels more subject matter experts, which will result in a fairer arbitration process;
- Allows for remote attendance by Commission members via telephone or video conference, preventing delayed hearings and the resulting increase in legal expenses;
- Imposes new civil penalties, ranging between \$250 to \$25,000, for employers who violate the obligations required under Workers' Compensation; and



- Deposits these civil penalties into the Guam Workers' Compensation Special Fund to help the Guam Department of Labor administer and enforce Workers' Compensation laws.

For more information, please contact the Office of Senator Régine Biscoe Lee at (671) 472-3455 or via email at senatorbiscoelee@guamlegislature.org.

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Additional documents accompany this release, which further explain amendments adopted for Bill No. 200-35 (COR) and Bill No. 201-35 (COR).

Attachments (2)



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Amendments to Bill No. 200-35 (COR), as amended by the Committee; substituted and further amended on the Floor.

Changes to Bill No. 200-35 (COR), which seeks to update 30-year-old Workers' Compensation rates, include:

1. **Basing the minimum weekly compensation for permanent total disability to 66 and two-thirds percent of the prevailing minimum wage.** This amendment, which sets the minimum weekly compensation for permanent total disability as 66.75% of the local minimum wage times 20 hours, was made to reflect a recommendation from the Insurance Association of Guam. This new, flexible target will help ensure that the rate does not create any malingering issues for any injured worker—that they would not be paid more to stay home than to return to work, and that rates would be adjusted automatically with any increase in the minimum wage, preventing the possibility of another update taking decades to enact.
2. **Basing all other minimum and maximum compensation amounts to reflect any per centum increases in the prevailing minimum wage.** The Insurance Association's idea to establish automatic adjustments that ensure regular updates to compensation rates is a good policy. Affording equal increases across the law, and not just for one portion of Workers' Compensation payouts is the fair way to apply this automatic adjustment policy. This shows a commitment to our families that legislative updates to Workers' Compensation will no longer be a once-in-a-generation exercise. Per centum adjustments based on increases in the minimum wage will also show a commitment to the business community that any compensation rate adjustments will be incremental, rather than infrequent and large increases like the one we needed today.
3. **Authorizing more than just the Guam Memorial Hospital Emergency Room to see government employees who want to file a claim with the Workers' Compensation Commission.** The Guam Department of Labor suggested this change, to help alleviate the burden of the already busy GMH ER. Not all workplace injuries are life-threatening. But today, a GovGuam worker who sprained their ankle on a wet floor will need to go to the GMH emergency room if they want a valid claim. The new provision now authorizes GMH's urgent care facility, and any private hospital's ER or urgent care facility to see GovGuam employees. These expanded, yet still limited options relieve



the pressure on GMH's ER as intended, while also preventing a risk of doctor-shopping for a fraudulent compensation claim.

4. **Implementing a compromise effective date of 120 days after enactment of this law.** The provision was added because all workers' compensation policies agreed to prior to the passage of Bill No. 200-35 would have been issued with pre-Bill 200 rates, anticipating pre-Bill 200 benefits. The amendment to the effective date of the bill provides the insurance industry time to conduct accurate actuarial analyses. It also accounts for the time needed for the Insurance Commissioner to deliberate and act on any rate adjustments proposed as a result of the enactment of this new law, and its new compensation amounts.
5. **Further adjusting the maximum weekly compensation for disability from \$520 to \$1,011.** This new ceiling was first suggested by the Guam Federation of Teachers, but other stakeholders expressed due to prevailing wages for doctors, masters in construction trades, and other high-paying occupations that are associated with workplace injuries, a higher maximum weekly rate was warranted. This proposal was further amended on the floor, and a bipartisan consensus was reached to enact the \$520 rate upon the law going into effect, and to further increase the rate to \$1,011 on October 1, 2021.

For more information, please contact the Office of Senator Régine Biscoe Lee at (671) 472-3455
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Changes were also made to Bill No. 201-35 (COR), which updates and modernizes the process in which these claims are handled, challenged, and settled. These amendments include:

1. **Imposing civil penalties, ranging between \$250 to \$25,000, for employers who violate the obligations required under Workers' Compensation.** This provision also allows the employer to appeal such penalties to the Worker's Compensation Commissioner. The change was first recommended by the Guam Department of Labor (GDOL) to ensure that the integral component for enforcement is included in the law. GDOL's initial request for a \$50 minimum fine was increased to \$250 on the Session floor.
2. **Depositing civil penalties be into the Guam Workers' Compensation Special Fund.** This provision allows the Director of Labor to access the fund for the operation of the Workers Compensation Commission. This change was also recommended by the Guam Department of Labor to allow them to use such civil penalties to fund and sustain meaningful enforcement activities of the Commission. As noted by GDOL, this regulatory concept has successfully been utilized in other compliance divisions of the Department and helps offset the cost of supplies and equipment essential for enforcement, without placing additional burden on the General Fund.

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