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Tony Evers, Governor
Amy Pechacek, Secretary-designee

Joint Committee for Review of Administrative Rules
Tuesday, March 7, 2023
11:00 AM
State Capitol, Room 412 East

Department of Workforce Development Testimony on EmR2212: Department of Workforce Development worker's compensation computation of the weekly wage for part-time employees.

Thank you, Co-chairs Nass and Neylon, and Committee Members, for having me here today.

My name is Arielle Exner. I am the Legislative Liaison at the Department of Workforce Development (DWD). DWD is charged with the administration of state and federal laws regarding unemployment insurance, worker's compensation, vocational rehabilitation, and worker training, and state employment laws.

Among the activities overseen by DWD is the Worker's Compensation Advisory Council (WCAC). A citizen advisory council has existed since 1911 to assist DWD and the Wisconsin Legislature in amending the Wisconsin Worker's Compensation Act. The Wisconsin Worker's Compensation Advisory Council was created by law in 1967 to advise the Department and Legislature on policy matters concerning the development and administration of the worker's compensation law. The Council strives to maintain the overall stability of the workers compensation system without regard to partisan changes in the legislative or executive branches of government.

One of the main functions of the Council is to recommend worker's compensation law changes to the Legislature through the "agreed upon bill" process. The process begins with the Council holding public hearings throughout the state where testimony is taken from all interested sources. Council members agree to support the Council's proposed changes in the Legislature and not to individually seek any changes to those proposals. By tradition the Council only recommends statutory changes that pass without dissent. When the Legislature approves the Council's recommendations and forwards the bill to the governor, the bill traditionally is signed into law.

On April 8, 2022, Governor Tony Evers signed the Worker's Compensation Agreed Upon Bill for 2022, AB-911. 2021 Wisconsin Act 232 became effective on April 10, 2022. Included in the Agreed Upon Bill was a provision regarding wage expansion for part-time employees.

To comply with these amendments to s. 102.11(1), DWD promulgated EmR 2212. The emergency rule is in effect from October 15, 2022 to March 13, 2023. DWD is in the process of promulgating a permanent rule for computing the weekly wage for part-time employees under the new law. The draft final rule, CR 22-072, was filed for legislative committee review on January 27, 2023. CR 22-072 was referred to the Assembly Committee on Workforce Development and Economic Opportunities on February 6, 2023, and the Senate Committee on Labor, Regulatory Reform, Veterans, and Military Affairs. No action has been taken by either committee yet.

The emergency rule expires on March 13, 2023, and the permanent rule will not be published before that date because of the time required for legislative review, promulgation, and publication. Accordingly, DWD respectfully requests, under s. 227.24 (2), that this committee extend the effective period of EmR2212 for an additional 60 days. As with the implementation of the emergency rule, failure to extend the emergency rule puts the Department's ability to comply with 2022 Wisconsin Act 232 at risk.

Thank you for the opportunity to provide this information, and for your time and consideration.