~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 26, 2017

**H. 3879**

Introduced by Reps. Davis, Yow, Thayer, Anderson and Gilliard

S. Printed 4/26/17--S.

Read the first time March 22, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3879) to amend Section 42‑9‑290, Code of Laws of South Carolina, 1976, relating to the maximum amount of burial expenses payable under workers’ compensation laws for accidental, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking page 1, lines 39-40, in their entirety, and inserting the following:

/ expenses up to but not exceeding ~~twenty‑five hundred~~ twelve thousand dollars. If the employee leaves dependents, only partly dependent /

Renumber sections to conform.

Amend title to conform.

TOM YOUNG, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by the House of Representatives on March 21, 2017**

**State Expenditure**

This bill amends the amount of workers’ compensation funds that are paid by the insurer for the death of an employee due to an accident. Under current law, if a death results proximately from an accident and within two years of the accident or while total disability still continues and within six years after the accident, the employer shall pay or cause to be paid to the dependents of the employee burial expenses up to but not exceeding $2,500. The bill increases the burial expenses to be paid by an employer through a workers compensation to a maximum amount of $10,000.

**Workers’ Compensation Commission.** The Commission indicates this bill does not impact the day-to-day operations of the Commission for reviewing death claims. While this bill increases the amount of payment of death benefits for a claimant who has died as a result of a work related death, the payment is made by the employer insurance carrier. Therefore, this bill does not have an expenditure impact on the general fund, federal funds, or other funds.

**State Revenue**

This amended bill increases the amount of workers’ compensation funds that are paid by the insurer for the death of an employee due to an accident from the current maximum of $2,500 to a maximum of $10,000. We expect the increase in the amount of workers’ compensation funds paid will cause an increase in premiums to offset the cost incurred by the insurers. However, this increase is undetermined, as there is insufficient data to determine the total increase of workers’ compensation fund that will be paid. Per §38-7-50, workers’ compensation premiums are subject to a 2.5 percent tax credited to the general fund. However, as the increase to the premiums is unknown, the increase to the workers’ compensation premium tax is also undetermined.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 42‑9‑290, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MAXIMUM AMOUNT OF BURIAL EXPENSES PAYABLE UNDER WORKERS’ COMPENSATION LAWS FOR ACCIDENTAL DEATH, SO AS TO INCREASE THE MAXIMUM PAYABLE AMOUNT TO SEVENTY‑FIVE HUNDRED DOLLARS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 42‑9‑290 of the 1976 Code is amended to read:

“Section 42‑9‑290. (A) If death results proximately from an accident and within two years of the accident or while total disability still continues and within six years after the accident, the employer shall pay or cause to be paid, subject, however, to the provisions of the other sections of this title, in one of the methods provided in this chapter, to the dependents of the employee wholly dependent upon his earnings for support at the time of the accident, a weekly payment equal to sixty‑six and two‑thirds percent of his average weekly wages, but not less than seventy‑five dollars a week so long as this amount does not exceed his average weekly wages; if this amount does exceed his average weekly wages, the amount payable may not be less than his average weekly wages nor more than the average weekly wage in this State for the preceding fiscal year, for a period of five hundred weeks from the date of the injury, and burial expenses up to but not exceeding ~~twenty‑five hundred~~ ten thousand dollars. If the employee leaves dependents, only partly dependent upon his earnings for support at the time of the injury, the weekly compensation to be paid must equal the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependence bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death, the compensation to dependents begins from the date of the last of such payments but does not continue more than five hundred weeks from the date of the injury. Compensation under this title to aliens not residents (or about to become nonresidents) of the United States or Canada is the same in amount as provided for residents, except that dependents in any foreign country are limited to a surviving spouse and child or children or, if there be no surviving spouse or child, to a surviving father or mother whom the employee has supported, either wholly or in part, for a period of three years before the date of the injury, and except that the commission may, at its option, or upon the application of the insurance carrier, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one‑half of the commuted amount of future installments of compensation as determined by the commission.

(B) The provisions of this section may not be construed to prohibit lump‑sum payments to surviving spouses. Provisions for lump‑sum settlement may be retroactive.

(C) Any death benefits to which a child through the age of eighteen years of an employee is entitled under this section vest with the child at the date of death of the employee and continue to be paid to the beneficiary subject to the five‑hundred‑week limitation regardless of his age.

(D) If at the date of death of the employee, the employee has a child nineteen years of age or older enrolled as a full‑time student in an accredited educational institution, the child is entitled to death benefits in the same manner as though he were under nineteen and shall receive benefits, subject to the five‑hundred‑week limitation, until the age of twenty‑three. However, if a student’s enrollment ends, except for normal breaks and vacations in accordance with schedules of the school, the child no longer is considered a dependent. When all the deceased employee’s children are no longer dependent, the remainder of that portion of the award must be paid to a surviving spouse or other full dependent, or if there be none, the remainder of that portion of the award must be paid in the same manner as provided in this section for cases where the employee is survived by no full dependents.

(E) Any dependent child mentally or physically incapable of self‑support must be paid benefits for the full five‑hundred‑week period regardless of age.

(F) In cases where benefits are payable to a surviving spouse and dependent children, the surviving spouse shall receive not less than one‑half of the benefits paid if there are two or more children.”

SECTION 2. This act takes effect upon approval by the Governor.

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