

HB 439-FN – AS AMENDED BY THE HOUSE

08Jan2014... 2364h

2013 SESSION

13-0635  
01/09

HOUSE BILL            ***439-FN***

AN ACT                relative to weekly workers' compensation payments.

SPONSORS:            Rep. H. Richardson, Coos 4

COMMITTEE:          Labor, Industrial and Rehabilitative Services

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ANALYSIS

This bill changes the weekly compensation for temporary total disability, permanent total disability, and temporary partial and permanent partial disability.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                                Matter removed from current law appears [~~in brackets and struckthrough~~].  
                                Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT                   relative to weekly workers' compensation payments.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Weekly Compensation Changed for Temporary Total Disability. Amend RSA 281-A:28, I and  
2 II to read as follows:

3           I. If an employee's average weekly wage is [~~30~~] **40** percent or less of the state's average  
4 weekly wage, weekly compensation shall be the full amount of that employee's average weekly wage.  
5 However, the maximum allowable weekly compensation rate under this paragraph shall not exceed  
6 [~~90~~] **100** percent of the employee's after tax earnings as determined by RSA 281-A:15.

7           II. If an employee's average weekly wage is over [~~30~~] **40** percent of the state's average weekly  
8 wage, weekly compensation shall be [~~60~~] **66 2/3** percent of that employee's average weekly wage or  
9 [~~30~~] **40** percent of the state's average weekly wage, whichever is greater, but in no event shall weekly  
10 compensation exceed 150 percent of the state's average weekly wage rounded off to the nearest dollar  
11 as the commissioner determines for the year in which the injury occurred. In no event shall the  
12 maximum weekly compensation rate exceed 100 percent of the employee's after tax weekly earnings  
13 as determined under RSA 281-A:15. For purposes of this section, the department of employment  
14 security shall establish the state's average weekly wage for the immediate preceding calendar year to  
15 be effective the following July 1.

16           2 Weekly Compensation Changed for Permanent Total Disability. Amend RSA 281-A:28-a, I  
17 and II to read as follows:

18           I. If an employee's average weekly wage is [~~30~~] **40** percent or less of the state's average  
19 weekly wage, weekly compensation shall be the full amount of said employee's weekly compensation  
20 rate. However, the maximum allowable weekly compensation rate under this paragraph shall not  
21 exceed [~~90~~] **100** percent of the employee's after tax earnings as determined pursuant to RSA 281-  
22 A:15.

23           II. If an employee's average weekly wage is over [~~30~~] **40** percent of the state's average weekly  
24 wage, weekly compensation shall be [~~60~~]**66 2/3** percent of the employee's average weekly wage or [~~30~~]  
25 **40** percent of the state's average weekly wage, whichever is greater, but in no event shall weekly  
26 compensation exceed 150 percent of the state's average weekly wage rounded off to the nearest dollar  
27 as determined by the commissioner for the year in which the injury occurred. In no event shall the  
28 weekly compensation rate exceed 100 percent of the employee's after tax weekly earnings as  
29 determined pursuant to RSA 281-A:15. For the purposes of this section, the state's average weekly  
30 wage shall be established by the department of employment security for the immediately preceding

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1 calendar year to be effective the following July 1.

2       3 Weekly Compensation Changed for Temporary Partial Disability. Amend RSA 281-A:31 to  
3 read as follows:

4       281-A:31 Compensation for Temporary Partial Disability. If the disability for work resulting  
5 from an injury is partial, and the employee is able to work but has not yet reached maximum medical  
6 improvement, the employer, or the employer’s insurance carrier, during such disability, but not for  
7 the first 3 days of disability unless the disability continues for 14 days or longer, shall pay to the  
8 injured employee a weekly compensation equal to ~~[60]~~ **66 2/3** percent of the difference between the  
9 employee’s average weekly wage before the injury and the average weekly wage which he or she is  
10 able to earn thereafter; but in no instance shall the weekly compensation exceed the amount set  
11 forth by the compensation schedule in RSA 281-A:28. Payments shall not continue after the  
12 disability ends, nor longer than 262 weeks; and, if the partial disability begins after a period of total  
13 disability, the period of total disability shall be deducted from such total period of 262 weeks.

14       4 Weekly Compensation Changed for Permanent Partial Disability. Amend RSA 281-A:31-a to  
15 read as follows:

16       281-A:31-a Compensation for Permanent Partial Disability. Where the disability for work  
17 resulting from an injury is permanent but partial in nature, the employee has reached maximum  
18 medical improvement, is able to return to work, and there is an impairment in accordance with the  
19 “Guides to the Evaluation of Permanent Impairment” published by the American Medical  
20 Association as set forth in RSA 281-A:32, the employer, or insurance carrier, during such disability  
21 shall pay to the injured employee a weekly compensation equal to ~~[60]~~ **66 2/3** percent of the  
22 difference between his average weekly wage before the injury and the average weekly wage which he  
23 is able to earn thereafter. However, in no instance shall the weekly compensation exceed the  
24 amounts set forth by the compensation schedule in RSA 281-A:28. Payments shall not continue after  
25 the disability ends, nor longer than 262 weeks; and if the partial disability begins after a period of  
26 total disability, the period of disability shall be deducted from such total period of 262 weeks.

27       5 Effective Date. This act shall take effect January 1, 2015.

28

**HB 439-FN FISCAL NOTE**

AN ACT                    relative to weekly workers' compensation payments.

**FISCAL IMPACT:**

The Department of Labor states this bill, **as amended by the House (Amendment #2013-2364h)**, will increase state, county, and local expenditures by an indeterminable amount in FY 2015 and each year thereafter. This bill will have no fiscal impact on state, county and local revenue.

**METHODOLOGY:**

The Department of Labor states this bill changes the weekly compensation for temporary total disability, permanent total disability, and temporary partial and permanent partial disability from 60 percent to 66 2/3 percent of the employee's average weekly wage. Using payouts made in 2011 by state, county and local self-insureds, the Department estimates state expenditures may increase by \$133,139 (2011 payout amount of \$1,997,088 \* 6 2/3%), county expenditures may increase by \$10,780 (2011 payout amount of \$161,698 \* 6 2/3%), and local expenditures may increase by \$461,478 (2011 payout amount of \$6,922,174 \* 6 2/3%). There may be additional costs as premiums for those counties and locals that are not self-insured increase. The Department is not able to determine these costs. Due to increased payouts, assessments to the Administration Fund and the Fund for Second Injuries would be higher as the funds are based on the payouts by all carriers and self-insureds.