

LFC Requester:

Gaussoin

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://agencyanalysis.nmlegis.gov) and email to billanalysis@dfa.nm.gov*****(Analysis must be uploaded as a PDF)*****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 2/12/2025*Check all that apply:***Bill Number:** HB0066Original ☐ Correction ☐Amendment ☐ Substitute ☒**Agency Name****and Code**

General Services Department - 350

Number:**Sponsor:** Pamelya Herndon**Short** Workers Compensation**Person Writing** Jeannette Chavez**Title:** Changes**Phone:** 505.660.4803 **Email** Jeannette.chavez@gsd.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	\$473,000+	\$473,000+	~\$946,000+	Recurring	Workers' Compensation Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Similar to 2023 HB 455
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

Bill Summary - The substitute to HB66 puts forth monetary changes to associated costs/charges/fee related to workers compensation claims.

Synopsis:

The substitute to HB66 increases expenses and fees incrementally by (1) increase the limit on employer-paid discovery expenses from \$3,000 to \$3,500, with further semi-annual increases through calendar year 2029; and, (2) increase the cap on workers' compensation attorneys' fees from \$22,500 to \$30,000 for 2025, with further semi-annual increases through calendar year 2029.

The substitute also adds new language requiring the Advisory Council on Workers' Compensation and Occupational Disease Disablement review fees and limitations on costs beginning May 1, 2029, and by November 1, 2029, the Council is required to make recommendations to the legislature on any adjustments.

FISCAL IMPLICATIONS

The substitute to HB66 would increase the costs associated with workers' compensation claims by increasing the limit on up-front discovery costs to employers (i.e., the State of New Mexico); and by substantially raising the cap on workers' compensation attorneys' fees.

The Risk Management Division (RMD) of the General Services Department (GSD) is unable to provide an estimated increase in costs to the Workers' Compensation Fund (Fund) because RMD does not know how many claims will be filed in the future. However, a study found that 83.5% of cases did not hit the fee cap, 4.4% hit the fee cap and 12.1% might have hit the fee cap.

The Fund paid out just over \$3 million in 2024. If 4.4% of the 1435 claims in that year cost an additional \$8,000, it would affect the cost of sixty-three claims in 2024. If those sixty-three claims reached the current attorney fee cap of \$22,500, it would equal \$1,417,500. If the cap had been \$30,000 rather than \$22,500, those sixty-three claims would have cost the fund \$1,890,000 instead of \$1,417,500, which amounts to an additional \$473,000 per year in additional attorneys' fees.

SIGNIFICANT ISSUES

52-1-54. FEE RESTRICTIONS--APPOINTMENT OF ATTORNEYS BY THE DIRECTOR OR WORKERS' COMPENSATION JUDGE--DISCOVERY COSTS--OFFER OF JUDGMENT--PENALTY FOR VIOLATIONS. This bill would increase discovery cost limits from \$3,000 to \$3,500, with bi-annual increases through 2029 (\$4,000 in 2027; \$4,500 in 2029). HB66 would also raise the attorney fee cap from \$22,500 to \$30,000 in calendar year 2025. After 2025, the maximum allowable attorneys' fees would be adjusted bi-annually through 2029 (\$32,000 in 2027; \$34,000 in 2029).

During the 2023 60-day session, HB455 aimed to raise these same caps to account for the effects of inflation. (HB455 would have raised the discovery cap to \$10,000 and raised the attorney fee cap to \$32,500.) HB455 did not progress beyond the initial legislative hearings. This led to New Mexico House Memorial 83, the formation of a task force to review and study fees and caps and their impact on access to justice for workers. The task force recommended increasing these fee limits to better reflect economic realities and inflationary pressures since these values were last increased in 2013. The state's increased minimum wage has resulted in workers receiving higher Temporary Total Disability (TTD) and indemnity payments compared to 2013, offsetting some of the increased costs that would come with higher fees and caps. In addition, any reduction in a worker's net award is mitigated by the 50-50% split of attorney fees in most WC cases.

The realities of workers' compensation legal practice may justify a substantial increase in the cap on attorneys' fees but doubling the cap on up-front discovery costs would be costly and provide only a marginal benefit to affected employees. The task force recommendation is consistent with this view; it recommended a more modest increase in the up-front discovery cost cap from \$3,000 to \$3,500. The task force's recommendation is supported by one attorney survey which suggested that the \$3,000 limit is exceeded infrequently. Internal claims expense data also support a more measured increase in the discovery cap.

PERFORMANCE IMPLICATIONS

NA

ADMINISTRATIVE IMPLICATIONS

NA – GSD would continue to process claims as is.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

NA

TECHNICAL ISSUES

NA

OTHER SUBSTANTIVE ISSUES

A study found that 83.5% of cases did not hit the fee cap, 4.4% hit the fee cap and 12.1% might have hit the fee cap.

ALTERNATIVES

No action, reduction, or higher caps

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo will remain in place.

AMENDMENTS