

Suspend the Rules and Pass the Bill, H.R. 2465, with An Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

112TH CONGRESS
1ST SESSION

H. R. 2465

To amend the Federal Employees' Compensation Act.

IN THE HOUSE OF REPRESENTATIVES

JULY 8, 2011

Mr. KLINE (for himself, Mr. GEORGE MILLER of California, Mr. WALBERG, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Federal Employees' Compensation Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Workers’ Com-
5 pensation Modernization and Improvement Act”.

6 **SEC. 2. PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE**

7 **NURSES.**

8 (a) DEFINITION OF MEDICAL SERVICES.—Section
9 8101(3) of title 5, United States Code, is amended—

1 (1) by striking “law. Reimbursable” and insert-
2 ing “law (reimbursable”); and

3 (2) by inserting before the semicolon, the fol-
4 lowing: “, and medical services may include treat-
5 ment by a physician assistant or advanced practice
6 nurse, such as a nurse practitioner, within the scope
7 of their practice as defined by State law, consistent
8 with regulations prescribed by the Secretary of
9 Labor)”.

10 (b) MEDICAL SERVICES AND OTHER BENEFITS.—
11 Section 8103 of title 5, United States Code, is amended—

12 (1) by redesignating subsection (b) as sub-
13 section (c); and

14 (2) by inserting after subsection (a), the fol-
15 lowing:

16 “(b) Medical services furnished or prescribed pursu-
17 ant to subsection (a) may include treatment by a physician
18 assistant or advanced practice nurse, such as a nurse
19 practitioner, within the scope of their practice as defined
20 by State law, consistent with regulations prescribed by the
21 Secretary of Labor.”.

22 (c) CERTIFICATION OF TRAUMATIC INJURY.—Section
23 8121(6) of title 5, United States Code, is amended by in-
24 serting before the period, the following: “(except that in
25 a case of a traumatic injury, a physician assistant or ad-

1 vanced practice nurse, such as a nurse practitioner, within
2 the scope of their practice as defined by State law, may
3 also provide certification of such traumatic injury and re-
4 lated disability during the continuation of pay period cov-
5 ered by section 8118, in a manner consistent with regula-
6 tions prescribed by the Secretary of Labor)”.
7

7 SEC. 3. COVERING TERRORISM INJURIES.

8 Section 8102(b) of title 5, United States Code, is
9 amended in the matter preceding paragraph (1)—

10 (1) by inserting “or from an attack by a ter-
11 rorist or terrorist organization, either known or un-
12 known,” after “force or individual,”; and

13 (2) by striking “outside” and all that follows
14 through “1979)” and inserting “outside of the
15 United States”.

16 SEC. 4. DISFIGUREMENT.

17 Section 8107(c)(21) of title 5, United States Code—

18 (1) by striking “For” and inserting the fol-
19 lowing: “(A) Except as provided under subparagraph
20 (B), for”; and

21 (2) by adding at the end the following:

22 “(B) Notwithstanding subparagraph (A), for an
23 injury occurring during the 3-year period prior to
24 the date of enactment of the Federal Workers’ Com-
25 pensation Modernization and Improvement Act for

1 which the Secretary of Labor has not made a com-
2 pensation determination on disfigurement under sub-
3 paragraph (A), or for an injury occurring on or after
4 the date of enactment of such Act resulting in a se-
5 rious disfigurement of the face, head, or neck, prop-
6 er and equitable compensation in proportion to the
7 severity of the disfigurement, not to exceed \$50,000,
8 as determined by the Secretary, shall be awarded in
9 addition to any other compensation payable under
10 this schedule. The applicable maximum compensa-
11 tion for disfigurement provided under this subpara-
12 graph shall be adjusted annually on March 1 in ac-
13 cordance with the percentage amount determined by
14 the cost of living adjustment in section 8146a.”.

15 **SEC. 5. SOCIAL SECURITY EARNINGS INFORMATION.**

16 Section 8116 of title 5, United States Code, is
17 amended by adding at the end the following:

18 “(e) Notwithstanding any other provision of law, the
19 Secretary of Labor may require, as a condition of receiving
20 any benefits under this subchapter, that a claimant for
21 such benefits consent to the release by the Social Security
22 Administration of the Social Security earnings informa-
23 tion of such claimant.”.

1 **SEC. 6. CONTINUATION OF PAY IN A ZONE OF ARMED CON-**
2 **FLICT.**

3 Section 8118 of title 5, United States Code, is
4 amended—

5 (1) in subsection (b), by striking “Continu-
6 ation” and inserting “Except as provided under sub-
7 section (e)(2), continuation”;

8 (2) in subsection (c), by striking “subsections
9 (a) and (b)” and inserting “subsections (a) and (b)
10 or subsection (e),”;

11 (3) in subsection (d), by striking “subsection
12 (a)” and inserting “subsection (a) or (e)”;

13 (4) by redesignating subsection (e) as sub-
14 section (f); and

15 (5) by inserting after subsection (d) the fol-
16 lowing:

17 “(e) CONTINUATION OF PAY IN A ZONE OF ARMED
18 CONFLICT.—

19 “(1) IN GENERAL.—Notwithstanding subsection
20 (a), the United States shall authorize the continu-
21 ation of pay of an employee as defined in section
22 8101(1) of this title (other than those referred to in
23 subparagraph (B) or (E)), who has filed a claim for
24 a period of wage loss due to traumatic injury in per-
25 formance of duty in a zone of armed conflict (as so
26 determined by the Secretary of Labor under para-

1 graph (3)), as long as the employee files a claim for
2 such wage loss benefit with his immediate superior
3 not later than 45 days following termination of as-
4 signment to the zone of armed conflict or return to
5 the United States, whichever occurs later.

6 “(2) CONTINUATION OF PAY.—Notwithstanding
7 subsection (b), continuation of pay under this sub-
8 section shall be furnished for a period not to exceed
9 135 days without any break in time or waiting pe-
10 riod, unless controverted under regulations pre-
11 scribed by the Secretary of Labor.

12 “(3) DETERMINATION OF ZONES OF ARMED
13 CONFLICT.—For purposes of this subsection, the
14 Secretary of Labor, in consultation with the Sec-
15 retary of State and the Secretary of Defense, shall
16 determine whether a foreign country or other foreign
17 geographic area outside of the United States (as
18 that term is defined in section 202(7) of the State
19 Department Basic Authorities Act of 1956 (22
20 U.S.C. 4302(7))) is a zone of armed conflict based
21 on whether—

22 “(A) the Armed Forces of the United
23 States are involved in hostilities in the country
24 or area;

1 “(B) the incidence of civil insurrection,
2 civil war, terrorism, or wartime conditions
3 threatens physical harm or imminent danger to
4 the health or well-being of United States civil-
5 ian employees in the country or area;

6 “(C) the country or area has been des-
7 ignated a combat zone by the President under
8 section 112(e) of the Internal Revenue Code of
9 1986 (26 U.S.C. 112(e));

10 “(D) a contingency operation involving
11 combat operations directly affects civilian em-
12 ployees in the country or area; or

13 “(E) there exist other relevant conditions
14 and factors.”.

15 **SEC. 7. SUBROGATION OF CONTINUATION OF PAY.**

16 (a) SUBROGATION OF THE UNITED STATES.—Sec-
17 tion 8131 of title 5, United States Code, is amended—

18 (1) in subsection (a), by inserting “continuation
19 of pay or” before “compensation”; and

20 (2) in subsection (c), by inserting “continuation
21 of pay or” before “compensation already paid”.

22 (b) ADJUSTMENT AFTER RECOVERY FROM A THIRD
23 PERSON.—Section 8132 of title 5, United States Code, is
24 amended—

1 (1) by inserting “continuation of pay or” before
2 “compensation” the first, second, fourth, and fifth
3 place it appears;

4 (2) by striking “in his behalf” and inserting
5 “on his behalf”; and

6 (3) by inserting “continuation of pay and” be-
7 fore “compensation” the third place it appears.

8 **SEC. 8. FUNERAL EXPENSES.**

9 Section 8134 of title 5, United States Code, is
10 amended—

11 (1) in subsection (a), by striking “If” and in-
12 serting “Except as provided in subsection (b), if”;

13 (2) by redesignating subsection (b) as sub-
14 section (c); and

15 (3) by inserting after subsection (a) the fol-
16 lowing:

17 “(b) Notwithstanding subsection (a), for deaths oc-
18 curring on or after the date of enactment of the Federal
19 Workers’ Compensation Modernization and Improvement
20 Act, if death results from an injury sustained in the per-
21 formance of duty, the United States shall pay, to the per-
22 sonal representative of the deceased or otherwise, funeral
23 and burial expenses not to exceed \$6,000, in the discretion
24 of the Secretary of Labor. The applicable maximum com-
25 pensation for burial expenses provided under this sub-

1 section shall be adjusted annually on March 1 in accord-
2 ance with the percentage amount determined by the cost
3 of living adjustment in section 8146a.”.

4 **SEC. 9. EMPLOYEES’ COMPENSATION FUND.**

5 Section 8147 of title 5, United States Code, is
6 amended—

7 (1) in subsection (a)—

8 (A) by striking “except administrative ex-
9 penses” and inserting “including administrative
10 expenses”; and

11 (B) by striking the last 2 sentences; and

12 (2) in subsection (b)—

13 (A) in the first sentence, by inserting be-
14 fore the period “and an estimate of a pro-rata
15 share of the amount of funds necessary to ad-
16 minister this subchapter for the fiscal year be-
17 ginning in the next calendar year”; and

18 (B) in the second sentence, by striking
19 “costs” and inserting “amount set out in the
20 statement of costs and administrative expenses
21 furnished pursuant to this subsection”.

22 **SEC. 10. CONFORMING AMENDMENT.**

23 Section 8101(1)(D) of title 5, United States Code,
24 is amended by inserting before the semicolon “who suf-
25 fered an injury on or prior to March 3, 1979”.

1 **SEC. 11. EFFECTIVE DATE.**

2 Except as otherwise provided, this Act and the
3 amendments made by this Act, shall take effect 60 days
4 after the date of enactment of this Act.

5 **SEC. 12. PAYGO COMPLIANCE.**

6 The budgetary effects of this Act, for the purpose of
7 complying with the Statutory Pay-As-You-Go Act of 2010,
8 shall be determined by reference to the latest statement
9 titled “Budgetary Effects of PAYGO Legislation” for this
10 Act, submitted for printing in the Congressional Record
11 by the Chairman of the House Budget Committee, pro-
12 vided that such statement has been submitted prior to the
13 vote on passage.