What's a limb worth? Well, not much in Indiana.

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Claire Bushey November 18, 2016

A factory worker's finger is sliced off on the job. What's the maximum workers' compensation payment the victim can receive? Trick question. Depends on which finger and in which state the accident occurred.

Ghoulish as it may seem, the payout for employees who lose a finger on the job—or an arm, leg or testicle—is written straight into state legal code. Statutes in Illinois and Indiana assign values to different parts of the body, which feed into regulatory formulas that determine the total payment. Payments in Illinois diminish across the palm, from $108,584.24 for a thumb down to $31,432.28 for a pinkie.

Indiana, meanwhile, prices the same fingers between $46,848 and $14,000.

There's also a vast span between workers' comp insurance premiums in the two states. Illinois employers pay $2.23 for every $100 in payroll, while those in Indiana pay $1.05. (The national median is $1.84.) Today, Illinois is tied for having the eighth-most expensive premiums in the nation; Indiana has the second cheapest.

The expense—and the wide discrepancy in benefits between the Midwestern states—is costing Illinois jobs, according to Gov. Bruce Rauner and a few vocal business groups. Changes in workers' comp law were a major issue in Rauner's 2014 gubernatorial campaign, a key ingredient of his legislative “Turnaround Agenda” and a recurring theme in the most recent election, when he **sank more than $41.4 million** into Republican candidates. Since then, Rauner has reiterated his stance in his ongoing budget fight with Illinois House Speaker Michael Madigan.

Though such premiums have been dropping in Illinois for more than two decades, they've fallen faster elsewhere. There are two explanations: One side argues that Illinois' costs are bloated because benefits are too generous and it's too easy to qualify for them. Greg Baise,

president of the Illinois Manufacturers' Association in Oak Brook, faults doctors and lawyers who resist cuts to medical fees and benefit awards “to make sure they keep their share of the pie.”

“The idea that the value of this finger is more in Illinois than it is in Indiana, the fact that a doctor working on a carpal tunnel injury is going to charge $2,700 in a Medicare case and $7,500 in a workers' comp case—those things have to be brought into line,” he says.

The counterargument: States like Indiana have achieved their low-cost, business-friendly climate on the backs of injured workers. The U.S. Department of Labor **published a report** in October warning that workers are at risk of poverty because states are passing legislation to limit benefits, discourage the injured from applying for them and raise the bar to qualify. It says the federal government should consider setting a minimum standard—although Donald Trump's victory makes that **seem unlikely**.

Charles Haskins Jr., a longtime Chicago workers' comp attorney, says comparing Illinois to Indiana is like comparing “an industrialized nation to a banana republic.” He adds: “Why should we be in the race to the bottom? We're talking about human beings here.”

UNFRIENDLY BUSINESS CLIMATE?

Workers' comp is a political issue that divides neatly along traditional lines, pitting labor, trial lawyers and their Democratic allies against employers, insurance companies and Republicans, with huge consequence. Illinois insurers and self-insured companies paid an estimated $2.75 billion in workers' comp benefits in 2014, according to the National Academy of Social Insurance, a nonpartisan think tank in Washington, D.C. Forty-five percent of the money covers medical costs; the rest pays a portion of employees' wages while they recover or goes toward a permanent disability award. By contrast, payers in Indiana shelled out an estimated $589.2 million, with 73 percent going toward medical costs.

Rauner and business allies cite this system as a major factor contributing to an unfriendly business climate. It's not just Indiana they draw a comparison to, either: Illinois has the highest insurance premiums among its Midwestern neighbors. Wisconsin employers pay $2.06 per $100 in payroll; in Iowa it's $1.86, and Michigan $1.57. Even Illinois Attorney General Lisa Madigan, a Democrat, wrote a memo in 2012 arguing that it should be harder for workers to prove an injury relates to their job.

Baise singles out workers' comp as “one of the top issues that deter” manufacturers from expanding operations here. Backing up his case are employers like **Modern Drop Forge** and **Hoist Liftruck** that cited it when they decamped for other states.

But not every company weights the issue as heavily. Two company presidents who recently announced moves to Wisconsin say that lower workers' comp premiums were an added benefit of relocation, not the primary motivation. Colbert Packaging's Jim Hamilton says that if the totality of Illinois' dysfunction that **drove him north** equals 100 percent, “1 to 2 percent might have been workers' comp.”

The 13th state to adopt a workers' compensation law, Illinois passed its statute two years after one of the worst industrial disasters in U.S. history: a **1909 coal mine fire** in north central Cherry that killed 259 men and boys. Before compensation laws, injured workers received nothing unless they sued their employers. Though such lawsuits rarely succeeded, when they did, they could bankrupt a company.

The compensation system grew from the idea that the cost of work-related injuries should be built into that of making a product or providing a service. The legislation struck a bargain between labor and business: Workers surrendered their right to sue for the promise that employers would pay for their medical care and a portion of their lost income.

In the 1970s, a commission convened by President Richard Nixon found the state-by-state patchwork of laws “inadequate and inequitable.” The commission pushed for states to broaden and deepen coverage or risk the federal government setting a baseline. States scurried to act.

Many are now reversing course. Since 2003, at least 33 states have **reduced workers' comp benefits** or made it harder to successfully apply for them. Between 2002 and 2014, estimated total benefits per $100 of insured wages nationwide slid from $1.15 to 91 cents. Legislative changes contributed to the drop-off, as did factors like employment levels, wage rates and a decrease in injuries, says Christopher McLaren, an economist at the National Academy of Social Insurance in Washington, D.C.

Costs slid along with benefits. Illinois changed its system in 2011, limiting payments for carpal tunnel syndrome and for employees who can still work but whose injuries force them into lower-paying jobs. The heart of the legislation, though, was a 30 percent cut to payments for doctors, hospitals and pharmacies treating those injured on the job. In the end, Illinois saw a **13 percent dip** in workers' comp medical costs between 2010 and 2014, the fourth-largest drop in the country. The number of new claims also dropped.

Steve Brown, a spokesman for Michael Madigan, and trial lawyers say insurance companies, not employers, have reaped the benefits from the 2011 changes. Last year 332 insurance companies underwrote workers' comp policies in Illinois, more than in any other state, collecting $2.83 billion in premiums (226 companies insured themselves). In 2010, insurers reported losses of nearly 11 percent; four years later, they reported the same in profits.

While the 2011 changes likely shrank insurers' losses, there's no way to know if the profit bump will be sustained, says Steve Schneider, the American Insurance Association's vice president for state affairs in the Midwest. Insurers in Illinois averaged 6.1 percent profit annually between 2011 and 2014—”not a lot” compared to other industries.

'CLOSER TO THE NORM'

Still, Rauner and groups like the manufacturing association, the Illinois Chamber of Commerce and the state chapter of the National Federation of Independent Business want more changes. Under the governor's Turnaround Agenda, it would no longer be enough for workers to prove an injury is related to their work. The new standard would require them to prove the injury

arose directly from their job, and it would prevent them from receiving compensation for injuries they suffered traveling to or from a worksite. It would give arbitrators greater latitude when deciding how much to award. And it would reduce medical fees by another 30 percent for everything except office visits and physical therapy.

Catherine Kelly, the governor's spokeswoman, says in an email that the system is now “absorbing costs caused by heart disease, obesity and other non-occupational health issues; we need to follow the 29 other states that have enacted reforms to protect the system from non-work-related costs.”

The goal isn't to be Indiana, Baise says; the goal is to be “closer to the norm.”

But the new normal isn't lowering the cost of workers' comp so much as shifting the burden to injured workers, their families and other safety net programs like Social Security Disability Insurance, argues the Department of Labor. Part of the rationale for making employers pay for workers' comp in the first place was to establish a financial incentive encouraging accident-free workplaces. Without that incentive, “injured workers, their families and other benefit programs effectively subsidize high-hazard employers.”

Illinois has 2,883 injuries for every 100,000 workers. Indiana has 3,913.

So you might want to watch those fingers.