

2024 Regular Session

HOUSE BILL NO. 529

BY REPRESENTATIVES CREWS, MCFARLAND, AND MIKE JOHNSON

WORKERS COMPENSATION: Provides relative to the determination of the average weekly wage

1 AN ACT

2 To amend and reenact R.S. 23:1021(13)(a) through (d) and to repeal R.S. 23:1021(11),
3 relative to workers' compensation; to define the term "wages"; to provide for the
4 determination of the average weekly wage; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 23:1021(13)(a) through (d) are hereby amended and reenacted to
7 read as follows:

8 §1021. Terms defined

9 As used in this Chapter, unless the context clearly indicates otherwise, the
10 following terms shall be given the meaning ascribed to them in this Section:

11 * * *

12 (13) "Wages" means ~~average weekly wage at the time of the accident. The~~
13 ~~average weekly wage shall be determined as follows~~ any of the following:

14 (a) ~~Hourly wages.~~ The employee's total earnings paid by the employer
15 during the fifty-two weeks preceding the date of the work accident and excluding the
16 week of the injury, divided by fifty-two. Such earnings shall include but are not
17 limited to earnings from any of the following:

- 18 (i) Full-time, part-time, hourly, monthly, annual, or seasonal employment.
- 19 (ii) Paid sick leave, paid vacation, or paid holidays.
- 20 (iii) Unit, odd-lot, or piecework employment.

1 (iv) Tips reported to the employer.

2 (v) Commissions or bonuses.

3 (vi) Earnings received by the employee from any other basis of earnings
4 from his employment.

5 (b) If the employee has worked less than fifty-two weeks preceding the date
6 of the work accident as set forth in Subparagraph (a), of this Paragraph but more than
7 four weeks, the average weekly wage shall be determined by dividing the employee's
8 total earnings as set forth in Subparagraph (a) of this Paragraph by the total number
9 of weeks worked, excluding the week of the injury.

10 (c) If the employee has worked less than four weeks, the average weekly
11 wage shall be determined based on the average weekly amount earned by a person
12 in the same or similar job level or classification in the community.

13 (d) Wages shall not include any earnings paid or received by the employee
14 from any source other than the employment from which the accident or occupational
15 disease arises.

16 ~~(i) If the employee is paid on an hourly basis and the employee is employed~~
17 ~~for forty hours or more, his hourly wage rate multiplied by the average actual hours~~
18 ~~worked in the four full weeks preceding the date of the accident or forty hours,~~
19 ~~whichever is greater; or~~

20 ~~(ii) If the employee is paid on an hourly basis and the employee was offered~~
21 ~~employment for forty hours or more but regularly, and at his own discretion, works~~
22 ~~less than forty hours per week for whatever reason, then, the average of his total~~
23 ~~earnings per week for the four full weeks preceding the date of the accident; or~~

24 ~~(iii) If the employee is paid on an hourly basis and the employee is a part-~~
25 ~~time employee, his hourly wage rate multiplied by the average actual hours worked~~
26 ~~in the four full weeks preceding the date of the injury.~~

27 ~~(iv) A part-time employee, as defined in R.S. 23:1021(9) and who is~~
28 ~~employed by two or more different employers in two or more successive~~
29 ~~employments, shall be entitled to receive benefits as follows:~~

1 ~~(aa) If an employee is employed by two or more different employers in two~~
2 ~~or more successive employments and the employee incurs a compensable injury~~
3 ~~under the provisions of this Chapter in one of the employments, the employer in~~
4 ~~whose service the employee was injured shall pay the benefits due the employee as~~
5 ~~provided in this Chapter.~~

6 ~~(bb) If the employee is a part-time employee in one of the successive~~
7 ~~employments, is injured in that employment, but as a result of the injury also incurs~~
8 ~~loss of income from other successive employments, that employee shall be entitled~~
9 ~~to benefits computed by determining wages under the provisions of this Subsection~~
10 ~~using his hourly rate in employment at the time of injury and using the total hours~~
11 ~~worked for all employers of the part-time employee, but not to exceed his average,~~
12 ~~actual weekly hours worked or forty hours weekly, whichever is less.~~

13 ~~(v) For an employee in seasonal employment, his annual income divided by~~
14 ~~fifty-two.~~

15 ~~(aa) For purposes of this Subparagraph, seasonal employment shall be any~~
16 ~~employment customarily operating only during regularly recurring periods of less~~
17 ~~than forty-four weeks annually.~~

18 ~~(bb) If the employee was not engaged in the seasonal employment more than~~
19 ~~one year prior to the accident, his annual income shall be the average annual income~~
20 ~~of other employees of the same or most similar class working in the same or most~~
21 ~~similar employment for the same employer or, in the event that the employee was the~~
22 ~~only individual engaged in that specific employment, then his annual income shall~~
23 ~~be the average annual income of other employees of the same or most similar class~~
24 ~~working for a neighboring employer engaged in the same or similar employment.~~

25 ~~(b) Monthly wages. If the employee is paid on a monthly basis, his monthly~~
26 ~~salary multiplied by twelve then divided by fifty-two.~~

27 ~~(c) Annual wages. If the employee is employed at an annual salary, his~~
28 ~~annual salary divided by fifty-two.~~

- (e) Commission or bonuses.
- (f) Earnings received by the employee from any other basis of earning from his employer.
- (2) If the employee has worked less than 52 weeks preceding the date of the work accident, but more than four weeks, the average weekly wage shall be determined by dividing the employee's total earnings by the total number of weeks worked, excluding the week of the injury.
- (3) If the employee has worked less than four weeks, the average weekly wage shall be determined based on the average weekly amount earned by a person in the same or similar job level or classification in the community.

Present law defines "part-time employee".

Proposed law repeals the definition of "part-time employee".

(Amends R.S. 23:1021(13)(a)-(d); Repeals R.S. 23:1021(11))