

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 1580

INTRODUCER: Banking and Insurance Committee and Senator Hays

SUBJECT: Workers' Compensation Cost Task Force

DATE: April 3, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Johnson | Knudson | BI | Fav/CS |
| 2. | _____ | _____ | HP | _____ |
| 3. | _____ | _____ | AP | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1580 creates the Workers' Compensation Cost Task Force, which is composed of 18 members. The Chief Financial Officer or his or her designee will serve as chair of the task force. The purpose of the task force is to analyze workers' compensation costs. Specifically, the task force is required to:

- Review and analyze the recommendations of the Three-Member Panel 2013 Biennial Report in the context of reducing workers' compensation costs.
- Develop a report that includes its findings and recommendations to the Legislature regarding a new payment methodology for hospital inpatient and outpatient reimbursements in workers' compensation cases, which would reward efficiency, quality, and outcomes.
- Address other factors related to workers' compensation costs, including, but not limited to, the volume of inpatient and outpatient services, the number of accidents and workers' compensation claims, fraud, the cost per claim and treatment, and tort costs related to workers' compensation care.

The task force is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2015.

The bill provides that the Department of Financial Services (DFS) will provide administrative and staff support services for the task force. Members of the task force are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061, F.S. The DFS estimates the total costs associated with the task force would be \$38,320.98.

II. Present Situation:

Florida's Workers Compensation Law

Chapter 440, F.S., is Florida's workers' compensation law. The Division of Workers' Compensation within the Department of Financial Services (DFS) is responsible for administering ch. 440, F.S. Generally, employers/carriers are required to provide medical and indemnity benefits to a worker who is injured due to an accident arising out of and during the course of employment. For such compensable injuries, an employer/carrier is responsible for providing medical treatment, which includes, but is not limited to, medically necessary care and treatment. Section 440.13, F.S., provides that fees charged for remedial treatment, care, and attendance, except for independent medical examinations and consensus independent medical examinations, generally may not exceed the applicable fee schedules adopted by the three-member panel or authorized in this section.

The three-member panel (panel) consists of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members appointed by the Governor, subject to confirmation by the Senate, one member who is a representative of employers and another member who is a representative of employees. The panel determines statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by physicians, hospitals, ambulatory surgical centers, work-hardening programs, pain programs, and durable medical equipment. In addition to establishing reimbursement allowances, the panel is required to submit recommendations biennially to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

In 2013, the three-member panel report¹ included the following recommendations that have not been addressed by the Legislature:

- Remove the statutory mandate in s. 440.13(12)(a), F.S., that requires reimbursement for outpatient hospital services to be based on a percent of "usual and customary charges" and fix the reimbursement amounts to 120 percent or 140 percent of Medicare's payments under its Outpatient Prospective Payment System; or, in the alternative;
 - If a change in the methodology for hospital outpatient reimbursement services is not adopted, define "usual and customary charge" in a manner so that all stakeholders are aware of its intended meaning and when it is to be used in determining reimbursement for medically necessary treatment, care and attendance provided in an outpatient hospital setting.
- Remove the statutory mandate in s. 440.13(12)(a), F.S., that requires reimbursement for inpatient hospital services to be based on per diem and fix the reimbursement amounts to 120 percent or 140 percent of Medicare's payments under its Inpatient Prospective Payment System.²

¹ See The Three-Member Panel 2013 Biennial Report, available at: http://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Reports/3MP_Report_2013.pdf. (last visited Mar. 30, 2014).

² The three other recommendations were addressed by the Legislature in 2013 (Chapter 2013-131, s.1, Laws of Fla., and Chapter 2013-141, s. 6, Laws of Fla.).

III. Effect of Proposed Changes:

The bill creates the Workers' Compensation Cost Task Force. The Department of Financial Services will provide administrative and staff support services relating to the functions of the task force. The bill requires the task force to organize by July 1, 2014. The bill provides that the task force shall be composed of the following 18 members:

- The Chief Financial Officer, or his or her designee, who shall serve as chair of the task force.
- Three members of the task force who shall be the president or chief executive officer, or his or her designee, of the Florida Chamber of Commerce, Associated Industries of Florida, and the Florida Hospital Association.
- The Secretary of the Department of Health, or his or her designee.
- One member of the three-member panel.
- One member that represents a critical access hospital, appointed by the Speaker of the House of Representatives.
- One member who represents a rural hospital, appointed by the President of the Senate.
- Five members appointed by the President of the Senate and five members appointed by the Speaker of the House of Representatives, which must each include:
 - A member of the Legislature;
 - An owner or representative of a hospital system that has over 2,000 beds and provides services to a significant number of workers' compensation claims;
 - An owner or representative of a business that employs more than 500 employees;
 - An owner or representative of a business that employs less than 25 employees; and
 - A representative from an insurer that provides workers' compensation insurance.

The purpose of the task force is to analyze workers' compensation costs. The task force will review and analyze the recommendations of the Three-Member Panel 2013 Biennial Report in the context of reducing workers' compensation costs. The task force is required to develop a report that includes its findings and legislative recommendations regarding a new payment methodology for hospital inpatient and outpatient reimbursements in workers' compensation cases, which will reward efficiency, quality, and outcomes. The task force must address other factors related to workers' compensation costs, including, but not limited to, the volume of inpatient and outpatient services, the number of accidents and workers' compensation claims, fraud, the cost per claim and treatment, and tort costs related to workers compensation care. The task force is required to submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2015.

Members of the task force will serve without compensation. However, they are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061, F.S.

The bill repeals the task force June 30, 2015.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires the Department of Financial Services to provide administrative and staff support services for the task force. Members of the task force would be entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061, F.S. The task force is required to organize by July 1, 2014, and submit a report by January 1, 2015. The DFS estimates the following costs of the task force, based on a similar task force:³

| Item | Amount |
|--------------------------------------|--------------------|
| Travel | \$18,331.80 |
| Court Reporter | 12,828.26 |
| Meeting Room | 7,029.25 |
| Florida Administrative Weekly Notice | 131.67 |
| Total Expenditures | \$38,320.98 |

VI. Technical Deficiencies:

None.

³ E-mail from L. MaFaddin, Director of Legislative Affairs, Department of Financial Services (April 2, 2014) (on file with Senate Committee on Banking and Insurance).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 440.13 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on April 1, 2014:

The CS eliminates provisions which would have revised the workers' compensation reimbursement allowances for hospital care.

The CS creates the Workers' Compensation Cost Task Force, which is composed of 18 members. The Department of Financial Services will provide administrative and staff support services for the task force. The purpose of the task force is to analyze workers' compensation costs and to submit a report containing findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2015.

- B. **Amendments:**

None.