

STORAGE NAME: h4703.fs

DATE: April 6, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4703 (PCB FS 98-09)

RELATING TO: Workers' Compensation Joint Underwriting Association

SPONSOR(S): Committee on Financial Services and Representative Safley & others

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) FINANCIAL SERVICES YEAS 12 NAYS 0

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I. SUMMARY:

This bill would change the composition of the board of governors of the Florida Workers' Compensation Joint Underwriting Association (WCJUA) in order to more accurately reflect the current domestic workers' compensation insurance market.

Also, as the WCJUA is required under its plan of operation to reject coverage when a person is delinquent in the payment of premiums or surcharges to an insurer in the voluntary market, this bill prohibits insurers in the voluntary market from providing workers' compensation coverage to any person who is delinquent in the payment of premiums, assessments, surcharges, or penalties to the WCJUA.

The bill has no fiscal impact on state or local government.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Florida Workers' Compensation Joint Underwriting Association (WCJUA) is an insurance pool of last resort, providing workers' compensation coverage to employers unable to obtain coverage through the normal voluntary insurance market. The WCJUA is required to have actuarially sound rates that assure that it is self-funding. However, if the WCJUA is not able to meet its obligations, insureds having assessable policies will be assessed on a pro-rata earned premium basis in order to pay the WCJUA's losses.

WCJUA Board of Governors

The WCJUA, like other joint underwriting associations, is governed by a plan of operation and is overseen by a board of governors. Pursuant to s. 627.311(4)(a), F.S., the board of governors of the WCJUA is made up of:

- 5 domestic insurers;
 - 1 of whom is an assessable mutual insurer or other domestic insurer which has the largest voluntary written premium for workers' compensation and employer's liability insurance as of December 31, 1993;
 - 1 of whom is a commercial self-insurance fund which has the largest voluntary written premium for workers' compensation and employer's liability insurance as of December 31, 1993; and
 - 3 of whom are the 3 of the 5 group self-insurers' funds, which have the largest voluntary written premium for workers' compensation and employer's liability insurance as of December 31, 1993
- 5 of the 20 foreign insurers with the largest voluntary written premium in this state for workers' compensation and employer's liability, for the latest year for which data are available;
- a chairman, who is appointed by the Insurance Commissioner;
- 1 representative appointed by the largest property and casualty insurance agents' association in this state; and
- the insurance consumer advocate appointed under s. 627.0613, F.S.

In 1993, when the Florida Legislature created the WCJUA, the domestic market was comprised of assessable mutual insurers, commercial self-insurance funds, group self-insurance funds, in addition to insurers licensed to write workers' compensation insurance in this state. However, since 1993, most of the assessable mutual insurers, commercial self-insurance funds, and group self-insurance funds have converted into insurance companies. Consequently, the current statutory composition of the board of governors is not an accurate representation of the domestic workers' compensation insurance market. As a result, the WCJUA will encounter difficulty in seating future boards of governors.

Refusal of Coverage to Person Owing Money to Voluntary Market Insurer

The WCJUA, pursuant to s. 627.311(4)(b)12., F.S., and its plan of operation, is required to cancel or deny coverage to any employer who at the time of application is delinquent in payments of workers' compensation or employer's liability insurance premiums or surcharges owed to an insurer, commercial self-insurance fund, group self-insurance fund, or mutual insurer.

B. EFFECT OF PROPOSED CHANGES:

WCJUA Board of Governors

This bill amends the composition of the board of governors in order to reflect a more accurate representation of the domestic workers' compensation insurance market. Under this bill, the board of governors will be comprised of:

- 5 of the 20 domestic insurers with the largest voluntary written premium for workers' compensation and employer's liability insurance;
- 5 of the 20 largest foreign insurers with the largest voluntary written premium for workers' compensation and employer's liability insurance;
- a chairman appointed by the Insurance Commissioner;
- 1 person appointed by the largest property and casualty insurance agents' association in the state; and
- the consumer advocate appointed pursuant to s. 627.0613, F.S.

As it relates to the composition of the WCJUA board of governors, the term "insurer" includes group self-insurance funds, commercial self-insurance funds, assessable mutual insurers, and insurers authorized to write workers' compensation insurance in Florida.

Requirement to Reject Coverage When Money Is Owed to the WCJUA

As the WCJUA is required under its plan of operation to reject coverage of an employer that is delinquent in payments owed to the voluntary market, this bill prohibits insurers from providing workers' compensation or employer's liability insurance to any employer who is delinquent in payment of premiums, assessments, penalties, or surcharges to the WCJUA.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

This bill prohibits insurers from providing workers' compensation coverage to employers who are delinquent in the payment of premiums, assessments, penalties, or surcharges to the WCJUA.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. The bill prohibits insurers from providing workers' compensation or employer's liability insurance to an employer that is delinquent in payment of premiums, assessments, penalties, or surcharges to the WCJUA.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

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(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends s. 627.311, F.S.

E. SECTION-BY-SECTION RESEARCH:

N/A

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

Legislative Research Director:

ROBERT E. WOLFE, JR.

STEPHEN HOGGE