

By the Committee on Fiscal Policy and Senator Thomas

309-2182-99

1 A bill to be entitled
2 An act relating to workers' compensation;
3 amending s. 440.02, F.S.; defining the term
4 "net direct written premium"; amending s.
5 440.49, F.S.; revising the method of
6 calculating payments to the Special Disability
7 Trust Fund; amending s. 440.51, F.S.; revising
8 the method of determining expenses of
9 administration; amending s. 627.914, F.S.;
10 revising the requirements for reports of
11 information by workers' compensation insurers;
12 requiring a report by the Division of Workers'
13 Compensation; providing applicability; creating
14 the Workers' Compensation Rating Law Study
15 Commission; providing for appointment of
16 members; requiring the commission to make a
17 study and recommendations; requiring the staffs
18 of specified legislative committees to provide
19 administrative support; authorizing the
20 commission to contract with independent parties
21 for certain information; entitling commission
22 members to reimbursement for travel and
23 expenses; providing an appropriation; providing
24 an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsection (40) is added to section 440.02,
29 Florida Statutes, 1998 Supplement, to read:

30
31

1 440.02 Definitions.--When used in this chapter, unless
2 the context clearly requires otherwise, the following terms
3 shall have the following meanings:

4 (40) "Net direct written premiums" means premiums
5 arising from workers' compensation policies issued by an
6 insurer in Florida as the primary insurance carrier, adjusted
7 for any return or additional premiums arising from
8 endorsements, cancellations, audits, retrospective rating
9 plans, and dividends paid or credited to policyholders, but
10 without deduction for ceded reinsurance premiums transferred
11 to another insurance company for reinsurance purchased. When
12 reporting deductible policy premium for the purposes of ss.
13 440.49 and 440.51, full policy premium value must be reported
14 prior to application of deductible discounts or credits.

15 Section 2. Paragraph (b) of subsection (9) of section
16 440.49, Florida Statutes, 1998 Supplement, is amended to read:

17 440.49 Limitation of liability for subsequent injury
18 through Special Disability Trust Fund.--

19 (9) SPECIAL DISABILITY TRUST FUND.--

20 (b)1. The Special Disability Trust Fund shall be
21 maintained by annual assessments upon the insurance companies
22 writing compensation insurance in the state, the commercial
23 self-insurers under ss. 624.462 and 624.4621, the assessable
24 mutuals under s. 628.601, and the self-insurers under this
25 chapter, which assessments shall become due and be paid
26 quarterly at the same time and in addition to the assessments
27 provided in s. 440.51. The division shall estimate annually in
28 advance the amount necessary for the administration of this
29 subsection and the maintenance of this fund and shall make
30 such assessment in the manner hereinafter provided.

31

1 2. The annual assessment shall be calculated to
2 produce during the ensuing fiscal year an amount which, when
3 combined with that part of the balance in the fund on June 30
4 of the current fiscal year which is in excess of \$100,000, is
5 equal to the average of:

6 a. The sum of disbursements from the fund during the
7 immediate past 3 calendar years, and

8 b. Two times the disbursements of the most recent
9 calendar year.

10
11 Such amount shall be prorated among the insurance companies
12 writing compensation insurance in the state and the
13 self-insurers.

14 3. ~~The Net direct written premiums written by carriers~~
15 and the amount of premiums calculated by the division for
16 self-insured employers the companies for workers' compensation
17 in this state and the net premium written applicable to the
18 self-insurers in this state, in accordance with the National
19 Council on Compensation Insurance Basic Manual for Workers'
20 Compensation and Employers Liability Insurance for
21 self-insurers (1999 edition), are the basis for computing the
22 amount to be assessed as a percentage of net premiums. Such
23 payments shall be made by each carrier ~~insurance company~~ and
24 self-insurer to the division for the Special Disability Trust
25 Fund in accordance with such regulations as the division
26 prescribes.

27 4. The Treasurer is authorized to receive and credit
28 to such Special Disability Trust Fund any sum or sums that may
29 at any time be contributed to the state by the United States
30 under any Act of Congress, or otherwise, to which the state
31

1 may be or become entitled by reason of any payments made out
2 of such fund.

3 Section 3. Subsection (1) of section 440.51, Florida
4 Statutes, is amended to read:

5 440.51 Expenses of administration.--

6 (1) The division shall estimate annually in advance
7 the amounts necessary for the administration of this chapter,
8 in the following manner.

9 (a) The division shall, before November 15 ~~as soon as~~
10 ~~practicable after July 1~~ in each year, determine the
11 anticipated expenses of administration for the next calendar
12 ~~expense of administration of this chapter for the preceding~~
13 ~~fiscal year.~~ The expense of administration for such calendar
14 ~~preceding fiscal~~ year shall be used as the basis for
15 determining the amount to be assessed against each carrier in
16 order to provide for the expenses of the administration of
17 this chapter for the next calendar ~~current fiscal~~ year. The
18 determined assessment rate shall be announced by the division
19 as soon as practicable after such determination and becomes
20 effective January 1. However, for fiscal year 2000-2001, the
21 division shall impose an interim rate to facilitate
22 transition.

23 (b) The total expenses of administration shall be
24 prorated among carriers ~~the insurance companies~~ writing
25 compensation insurance in the state and self-insurers. The
26 net direct written premiums ~~collected~~ by carriers ~~the~~
27 ~~companies~~ and the amount of premiums calculated by the
28 division for self-insured employers ~~a self-insurer would have~~
29 ~~to pay if insured~~ are the basis for computing the amount to be
30 assessed. This amount may be assessed as a specific amount or
31 as a percentage of net direct written premiums payable as the

1 division may direct, provided such amount so assessed shall
2 not exceed 4 percent of such net direct written premiums. The
3 ~~carriers insurance companies~~ may elect to make the payments
4 required under s. 440.15(1)(f)~~s. 440.15(1)(e)~~ rather than
5 having these payments made by the division. In that event,
6 such payments will be credited to the carriers insurance
7 ~~companies~~, and the amount due by the carrier insurance company
8 under this section will be reduced accordingly.

9 Section 4. Effective July 1, 1999, section 627.914,
10 Florida Statutes, is amended to read:

11 627.914 Reports of information by workers'
12 compensation insurers required.--

13 (1) The department shall promulgate rules and
14 statistical plans which shall thereafter be used by each
15 insurer and self-insurance fund as defined in s. 624.461 in
16 the recording and reporting of loss, expense, and claims
17 experience, in order that the experience of all insurers and
18 self-insurance funds ~~self-insurers~~ may be made available at
19 least annually in such form and detail as may be necessary to
20 aid the department in determining whether Florida experience
21 for workers' compensation insurance is sufficient for
22 establishing rates.

23 ~~(2) Any insurer authorized to write a policy of~~
24 ~~workers' compensation insurance shall transmit the following~~
25 ~~information to the department each year with its annual~~
26 ~~report, and such information shall be reported on a net basis~~
27 ~~with respect to reinsurance for nationwide experience and on a~~
28 ~~direct basis for Florida experience:~~

29 ~~(a) Premiums written;~~

30 ~~(b) Premiums earned;~~

31 ~~(c) Dividends paid or credited to policyholders;~~

1 ~~(d) Losses paid;~~
2 ~~(e) Allocated loss adjustment expenses;~~
3 ~~(f) The ratio of allocated loss adjustment expenses to~~
4 ~~losses paid;~~
5 ~~(g) Unallocated loss adjustment expenses;~~
6 ~~(h) The ratio of unallocated loss adjustment expenses~~
7 ~~to losses paid;~~
8 ~~(i) The total of losses paid and unallocated and~~
9 ~~allocated loss adjustment expenses;~~
10 ~~(j) The ratio of losses paid and unallocated and~~
11 ~~allocated loss adjustment expenses to premiums earned;~~
12 ~~(k) The number of claims outstanding as of December 31~~
13 ~~of each year;~~
14 ~~(l) The total amount of losses unpaid as of December~~
15 ~~31 of each year;~~
16 ~~(m) The total amount of allocated and unallocated loss~~
17 ~~adjustment expenses unpaid as of December 31 of each year; and~~
18 ~~(n) The total of losses paid and allocated loss~~
19 ~~adjustment expenses and unallocated loss adjustment expenses,~~
20 ~~plus the total of losses unpaid as of December 31 of each year~~
21 ~~and loss adjustment expenses unpaid as of December 31 of each~~
22 ~~year.~~
23 ~~(3) A report of the information required in subsection~~
24 ~~(2) shall be filed no later than April 1 of each year and~~
25 ~~shall include the information for the preceding year ending~~
26 ~~December 31. All reports shall be on a calendar-accident year~~
27 ~~basis, and each calendar-accident year shall be reported at~~
28 ~~eight stages of development.~~
29 (2)(4) Each insurer and self-insurance fund authorized
30 to write a policy of workers' compensation insurance shall
31 transmit the information for paragraphs (a) through (e)(a),

1 ~~(b), (d), and (e)~~ annually on both Florida experience and
2 nationwide experience separately:

- 3 (a) Payrolls by classification.
4 (b) Manual premiums by classification.
5 (c) Standard premiums by classification.
6 (d) Losses by classification and injury type.
7 (e) Expenses.
8

9 A report of this information shall be filed no later than July
10 1 April of each year. All reports shall be filed in
11 accordance with standard reporting procedures for insurers,
12 which procedures have received approval by the department, and
13 shall contain data for the most recent policy period
14 available. A statistical or rating organization may be used
15 by insurers and self-insurance funds to report the data
16 required by this section. The statistical or rating
17 organization shall report each data element in the aggregate
18 only for insurers and self-insurance funds required to report
19 under this section who elect to have the ~~rating~~ organization
20 report on their behalf. Such insurers and self-insurance funds
21 shall be named in the report.

22 ~~(3)(5)~~ Individual self-insurers authorized to transact
23 ~~workers' compensation insurance~~ as provided in s.
24 440.02(21)(a)~~s. 440.02~~ shall report only Florida data as
25 prescribed in paragraphs (a) through (e) of subsection ~~(2)(4)~~
26 to the Division of Workers' Compensation of the Department of
27 Labor and Employment Security.

28 (a) The Division of Workers' Compensation shall
29 publish the dates and forms necessary to enable individual
30 self-insurers to comply with this section.
31

1 ~~(b) The Division of Workers' Compensation shall report~~
2 ~~the information collected under this section to the Department~~
3 ~~of Insurance in a manner prescribed by the department.~~

4 **(b)(c)** A statistical or rating organization may be
5 used by individual self-insurers for the purposes of reporting
6 the data required by this section and calculating experience
7 ratings.

8 ~~(6) The department shall analyze the information~~
9 ~~reported for the years 1982-1985 and shall report to the~~
10 ~~Legislature prior to August 1, 1986, on the sufficiency, by~~
11 ~~classification, of Florida experience for use in rating~~
12 ~~workers' compensation insurance.~~

13 **(4)(7)** The department shall provide a summary of
14 information provided pursuant to subsection ~~subsections~~ (2)
15 ~~and (4)~~ in its annual report.

16 Section 5. On or before January 1, 2000, the Division
17 of Workers' Compensation shall report to the President of the
18 Senate and the Speaker of the House of Representatives an
19 estimate of the amount of the reduction in the assessment rate
20 needed to fund the anticipated expenses of administration for
21 the division which result from the amendment of section
22 440.51(1), Florida Statutes, by this act.

23 Section 6. To the extent that this act substantively
24 changes the calculation of the premiums subject to assessment,
25 it shall apply only to policies issued or renewed on or after
26 its effective date.

27 Section 7. Workers' Compensation Rating Law Study
28 Commission.--

29 **(1)** There is created the Workers' Compensation Rating
30 Law Study Commission consisting of the following nine members:
31

1 (a) Four members appointed by the President of the
2 Senate, including:

3 1. Two members of the Senate;

4 2. A member of an association representing employers;

5 and

6 3. A member of a domestic workers' compensation
7 insurer.

8 (b) Four members appointed by the Speaker of the House
9 of Representatives, including;

10 1. Two members of the House of Representatives;

11 2. A member of an association representing employers;

12 and

13 3. A member of a national workers' compensation
14 insurer.

15 (c) The Insurance Commissioner or his or her
16 designated representative within the Department of Insurance.

17 (2) Each member may receive per diem and expenses for
18 travel, as provided in section 112.061, Florida Statutes,
19 while carrying out official business of the commission.

20 (3) Appointments must be made by July 1, 1999, and the
21 commission's first meeting must be held by August 15, 1999.
22 The commission shall continue to exist until December 1, 1999.
23 The chairman shall be designated from the membership.

24 Section 8. Duties and responsibilities.--The Workers'
25 Compensation Rating Law Commission shall:

26 (1) Hold a minimum of three public hearings, including
27 at least one in Tallahassee, to receive public comment and
28 input relative to Florida's workers' compensation rating law.

29 (2) Perform a study of Florida's workers' compensation
30 rating law and other state workers' compensation rating law
31 alternatives. The study shall include an analysis of prior

1 approval full-rate, loss-costs, and open-competition rating
2 laws and their impact on rates and premiums.

3 (3) Make recommendations concerning the most
4 appropriate method for establishing rates and premiums for
5 workers' comprehensive in Florida.

6 (4) The staffs of the Senate Banking and Insurance
7 Committee and the House Insurance Committee shall provide
8 administrative support to the study commission. The study
9 commission may contract with independent parties to provide
10 such information to the commission as it determines is
11 necessary to complete its study and recommendations.

12 (5) The study commission shall report its findings and
13 recommendations to the President of the Senate and the Speaker
14 of the House of Representatives by December 15, 1999.

15 Section 9. There is appropriated \$100,000 from the
16 Insurance Commissioner's Regulatory Trust Fund for
17 implementing the provisions of this act.

18 Section 10. Except for this section and sections 7, 8,
19 and 9, which shall take effect upon becoming a law, and except
20 as otherwise provided in this act, this act shall take effect
21 July 1, 2000.
22
23
24
25
26
27
28
29
30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1806
4 Delays the effective date until July 1, 2000, for Sections
5 1,2, and 3 of the bill.
6 Requires the Division of Workers' Compensation to report to
7 the Legislature by January 1, 2000, an estimate of the amount
8 of the reduction in the assessment rate needed to fund the
9 anticipated expenses of administration for the division which
10 result from the legislation.
11 Effective July 1, 1999, section 627.914, F.S., is amended to
12 delete the requirement that insurers report certain workers'
13 compensation data to the Department of Insurance, which is
14 duplicative of data that is submitted to the department by
15 statistical agents for the insurers.
16 Changes the date for a rating organization to submit an
17 aggregate compilation of payrolls, premium, losses, and
18 expense for all companies from April 1 to July 1 of each year.
19 Creates a Workers' Compensation Rating Law Study Commission
20 and provides for the study group to report its findings and
21 recommendations to the President of the Senate and the Speaker
22 of the House of Representatives by December 15, 1999.
23 Provides an appropriation of \$100,000 for the Study
24 Commission.
25
26
27
28
29
30
31