

By the Committee on Insurance and Representatives Bainter,
Waters, Patterson, Melvin, Argenio, Wiles, Dockery, Lawson and
Lee

1 A bill to be entitled
2 An act relating to workers' compensation;
3 clarifying the legislative intent that the
4 terms "net premiums written" and "net premiums
5 collected" as used in ch. 440, F.S., include
6 ceded reinsurance premiums in accord with
7 original intent; amending s. 440.49, F.S.;
8 revising the Special Disability Trust Fund's
9 annual assessment criteria relating to excluded
10 ceded reinsurance premiums; amending s. 440.51,
11 F.S.; revising criteria for annual estimates of
12 certain administrative expenses; reducing the
13 assessment rate for calendar year 2001;
14 authorizing the Division of Workers'
15 Compensation of the Department of Labor and
16 Employment Security to recover certain
17 underpayment of assessments; prohibiting
18 recovery of certain underpayment of
19 assessments; creating a Task Force on Workers'
20 Compensation Administration for certain
21 purposes; providing for membership; requiring
22 the task force to study the way in which the
23 workers' compensation system is funded and
24 administered and make recommendations to the
25 Governor and the Legislature; requiring the
26 Executive Office of the Governor to assist the
27 task force; providing responsibilities of the
28 office; providing an appropriation; providing
29 severability; providing an effective date.
30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Legislative intent.--It is the intent of
2 the Legislature to clarify that the terms "net premiums
3 written" and "net premiums collected" as used in chapter 440,
4 Florida Statutes, have meant and continue to mean premiums
5 arising from workers' compensation policies issued by an
6 insurer in this state as the primary insurance carrier without
7 deduction for ceded reinsurance premiums transferred to an
8 insurance company for reinsurance purchased or any premium
9 expense attributable to purchasing reinsurance.

10 Section 2. Paragraph (b) of subsection (9) of section
11 440.49, Florida Statutes, is amended to read:

12 440.49 Limitation of liability for subsequent injury
13 through Special Disability Trust Fund.--

14 (9) SPECIAL DISABILITY TRUST FUND.--

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

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

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

3 b. Two times the disbursements of the most recent
4 calendar year.

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6 Such amount shall be prorated among the insurance companies
7 writing compensation insurance in the state and the
8 self-insurers. Provided, however, for those carriers that have
9 excluded ceded reinsurance premiums from their assessments on
10 or before January 1, 2000, no assessments on ceded reinsurance
11 premiums shall be paid by those carriers until such time as
12 the division advises each of those carriers of the impact that
13 the inclusion of ceded reinsurance premiums has on their
14 assessment. The division may not recover any past
15 underpayments of assessments levied against any carrier that
16 excluded ceded reinsurance premiums from their assessment
17 prior to the point that the division advises of the
18 appropriate assessment that should have been paid.

19 3. The net premiums written by the companies for
20 workers' compensation in this state and the net premium
21 written applicable to the self-insurers in this state are the
22 basis for computing the amount to be assessed as a percentage
23 of net premiums. Such payments shall be made by each carrier
24 ~~insurance company~~ and self-insurer to the division for the
25 Special Disability Trust Fund in accordance with such
26 regulations as the division 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
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1 may be or become entitled by reason of any payments made out
2 of such fund.

3 Section 3. Subsections (1), (2), and (3) of section
4 440.51, Florida Statutes, are 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, by June 30 of ~~as soon as~~
10 ~~practicable after July 1~~ in each year, notify carriers and
11 self-insurers of the assessment rate, which shall be based
12 upon ~~determine~~ the anticipated expenses ~~expense~~ of
13 administration of this chapter for the next calendar ~~preceding~~
14 ~~fiscal~~ year. Such assessment rate shall take effect January 1
15 of the next calendar year and shall be included in workers'
16 compensation rate filings approved by the Department of
17 Insurance which become effective on or after January 1 of the
18 next calendar year. Assessments shall become due and be paid
19 quarterly. ~~The expense of administration for such preceding~~
20 ~~fiscal year shall be used as the basis for determining the~~
21 ~~amount to be assessed against each carrier in order to provide~~
22 ~~for the expenses of the administration of this chapter for the~~
23 ~~current fiscal year.~~

24 (b) The total expenses of administration shall be
25 prorated among the carriers ~~insurance companies~~ writing
26 compensation insurance in the state and self-insurers. The
27 net premiums collected by the carriers ~~companies~~ and the
28 amount of premiums calculated by the division for self-insured
29 employers ~~a self-insurer would have to pay if insured~~ are the
30 basis for computing the amount to be assessed. When reporting
31 deductible policy premium for purposes of computing

1 assessments levied after January 1, 2001, full policy premium
2 value shall be reported prior to application of deductible
3 discounts or credits.This amount may be assessed as a
4 specific amount or as a percentage of net premiums payable as
5 the division may direct, provided such amount so assessed
6 shall not exceed 2.75 ~~4~~ percent of such net premiums. The
7 carriers insurance companies may elect to make the payments
8 required under s. 440.15(1)(~~f~~)(~~e~~) rather than having these
9 payments made by the division. In that event, such payments
10 will be credited to the carriers insurance companies, and the
11 amount due by the carrier insurance company under this section
12 will be reduced accordingly.

13 (2) The division shall provide by regulation for the
14 collection of the amounts assessed against each carrier. Such
15 amounts shall be paid within 30 days from the date that notice
16 is served upon such carrier. If such amounts are not paid
17 within such period, there may be assessed for each 30 days the
18 amount so assessed remains unpaid, a civil penalty equal to 10
19 percent of the amount so unpaid, which shall be collected at
20 the same time and a part of the amount assessed. The division
21 may recover underpayments of assessments from a carrier for
22 assessments levied against that carrier after July 1, 2000.
23 The division shall not recover any past underpayments of
24 assessments related to ceded reinsurance premiums from a
25 carrier for assessments levied against that carrier prior to
26 July 1, 2000.

27 (3) If any carrier fails to pay the amounts assessed
28 against him or her under the provisions of this section within
29 60 days from the time such notice is served upon him or her,
30 the Department of Insurance upon being advised by the division
31 may suspend or revoke the authorization to insure compensation

1 in accordance with the procedure in s. 440.38(3)(a). The
2 division may permit a carrier to remit any underpayment of
3 assessments for assessments levied after July 1, 2000,
4 according to a payment schedule approved by the division.

5 Section 4. (1) Effective upon this act becoming law,
6 the Task Force on Workers' Compensation Administration is
7 created for the purpose of examining the way in which the
8 workers' compensation system is funded and administered. The
9 task force shall consist of seven members appointed as
10 follows: three members appointed by the Governor, one of whom
11 shall serve as chair, two members appointed by the President
12 of the Senate, and two members appointed by the Speaker of the
13 House of Representatives. Appointments shall be made no later
14 than July 1, 2000.

15 (2) The task force shall submit recommendations to the
16 Governor, the President of the Senate, and the Speaker of the
17 House of Representatives concerning the following questions by
18 January 15, 2001:

19 (a) How should the administration of the workers'
20 compensation system be funded: through assessments, general
21 revenue, or some other source, and to what extent?

22 (b) How should the funds be used to accomplish the
23 goal of administering the workers' compensation system in the
24 most cost-effective manner?

25 (c) What services, functions, or entities, including
26 the Workers' Compensation Oversight Board, should be funded as
27 part of the administration of the workers' compensation
28 system?

29 (d) What services and functions, including workplace
30 safety, if any, should be housed within the Division of
31 Workers' Compensation?

1 (e) What cost savings could be achieved in the
2 administration of the workers' compensation system, including
3 the operations of the Division of Workers' Compensation?

4 (f) What organizational changes affecting the
5 administration of the workers' compensation system, if any,
6 should be made to make it more efficient?

7 (3) To assist the task force in its work, the
8 Executive Office of the Governor shall contract for the
9 completion of a budgetary and operational analysis of the
10 Division of Workers' Compensation, detailing the staffing of
11 the division, receipt and expenditure of revenues, reliability
12 of financial records and reports, and efficiency of internal
13 controls and procedures. The Executive Office of the Governor
14 shall arrange for the study to be completed and transmitted to
15 the task force no later than September 1, 2000.

16 (4) The sum of \$250,000 is appropriated from the
17 Workers' Compensation Administration Trust Fund to the
18 Executive Office of the Governor for the purpose of funding
19 the study required in subsection (3).

20 Section 5. If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 invalidity does not affect other provisions or applications of
23 the act which can be given effect without the invalid
24 provision or application, and to this end the provisions of
25 this act are severable.

26 Section 6. Except as otherwise provided, this act
27 shall take effect July 1, 2000.

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HOUSE SUMMARY

Revises the Special Disability Trust Fund's annual assessment criteria relating to excluded ceded reinsurance premiums. Revises criteria for annual estimates of expenses of the Division of Workers' Compensation of the Department of Labor and Employment Security in administering chapter 440, Florida Statutes. Creates the Task Force on Workers' Compensation Administration to study the way in which the workers' compensation system is funded and administered and make recommendations to the Governor and the Legislature.