

By the Committee on Banking and Insurance; and Senator Thomas

311-2168A-00

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           relating to the assessment for the Special  
9           Disability Trust Fund; amending s. 440.51,  
10          F.S., relating to the assessment for the  
11          Workers' Compensation Administration Trust Fund  
12          and to expenses of administration; reducing the  
13          assessment rate for calendar year 2001;  
14          creating a Task Force on Workers' Compensation  
15          Administration to study the way in which the  
16          workers' compensation system is funded and  
17          administered; providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21           Section 1. Legislative intent.--It is the intent of  
22 the Legislature to clarify that the terms "net premiums  
23 written" and "net premiums collected" as used in chapter 440,  
24 Florida Statutes, have meant and continue to mean premiums  
25 arising from workers' compensation policies issued by an  
26 insurer in this state as the primary insurance carrier without  
27 deduction for ceded reinsurance premiums transferred to an  
28 insurance company for reinsurance purchased or any premium  
29 expense attributable to purchasing reinsurance.

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

1           440.49 Limitation of liability for subsequent injury  
2 through Special Disability Trust Fund.--

3           (9) SPECIAL DISABILITY TRUST FUND.--

4           (b)1. The Special Disability Trust Fund shall be  
5 maintained by annual assessments upon the insurance companies  
6 writing compensation insurance in the state, the commercial  
7 self-insurers under ss. 624.462 and 624.4621, the assessable  
8 mutuels under s. 628.601, and the self-insurers under this  
9 chapter, which assessments shall become due and be paid  
10 quarterly at the same time and in addition to the assessments  
11 provided in s. 440.51. The division shall estimate annually in  
12 advance the amount necessary for the administration of this  
13 subsection and the maintenance of this fund and shall make  
14 such assessment in the manner hereinafter provided.

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

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

22           b. Two times the disbursements of the most recent  
23 calendar year.

24  
25 Such amount shall be prorated among the insurance companies  
26 writing compensation insurance in the state and the  
27 self-insurers. However, for those carriers that have excluded  
28 ceded reinsurance premiums from their assessments on or before  
29 January 1, 2000, no assessments shall be paid by those  
30 carriers until the division advises each of those carriers of  
31 the impact that the inclusion of ceded reinsurance premiums

1 has on its assessment. The division may not recover any past  
2 underpayments of assessments levied against any carrier that  
3 deleted ceded reinsurance premiums from its assessment prior  
4 to the division advising of the appropriate assessment that  
5 should have been paid.

6 3. The net premiums written by the companies for  
7 workers' compensation in this state and the net premium  
8 written applicable to the self-insurers in this state are the  
9 basis for computing the amount to be assessed as a percentage  
10 of net premiums. Such payments shall be made by each carrier  
11 ~~insurance company~~ and self-insurer to the division for the  
12 Special Disability Trust Fund in accordance with such  
13 regulations as the division prescribes.

14 4. The Treasurer is authorized to receive and credit  
15 to such Special Disability Trust Fund any sum or sums that may  
16 at any time be contributed to the state by the United States  
17 under any Act of Congress, or otherwise, to which the state  
18 may be or become entitled by reason of any payments made out  
19 of such fund.

20 Section 3. Subsections (1), (2), and (3) of section  
21 440.51, Florida Statutes, are amended to read

22 440.51 Expenses of administration.--

23 (1) The division shall estimate annually in advance  
24 the amounts necessary for the administration of this chapter,  
25 in the following manner.

26 (a) The division shall, by June 30 of ~~as soon as~~  
27 ~~practicable after July 1 in~~ each year, notify carriers and  
28 self-insurers of the assessment rate, which shall be based on  
29 determine the anticipated expenses ~~expense~~ of the  
30 administration of this chapter for the next calendar ~~preceding~~  
31 fiscal year. Such assessment rate shall take effect January 1

1 of the next calendar year and shall be included in workers'  
2 compensation rate filings approved by the Department of  
3 Insurance which become effective on or after January 1 of the  
4 next calendar year. Assessments shall become due and be paid  
5 quarterly.~~The expense of administration for such preceding~~  
6 ~~fiscal year shall be used as the basis for determining the~~  
7 ~~amount to be assessed against each carrier in order to provide~~  
8 ~~for the expenses of the administration of this chapter for the~~  
9 ~~current fiscal year.~~

10 (b) The total expenses of administration shall be  
11 prorated among the carriers ~~insurance companies~~ writing  
12 compensation insurance in the state and self-insurers. The  
13 net premiums collected by carriers ~~the companies~~ and the  
14 amount of premiums calculated by the division for self-insured  
15 employers ~~a self-insurer would have to pay if insured~~ are the  
16 basis for computing the amount to be assessed. When reporting  
17 deductible policy premium for purposes of computing  
18 assessments levied after January 1, 2001, full policy premium  
19 value must be reported prior to application of deductible  
20 discounts or credits.This amount may be assessed as a  
21 specific amount or as a percentage of net premiums payable as  
22 the division may direct, provided such amount so assessed  
23 shall not exceed 2.75 ~~4~~ percent of such net premiums. The  
24 carriers ~~insurance companies~~ may elect to make the payments  
25 required under s. 440.15(1)(f)~~s. 440.15(1)(e)~~ rather than  
26 having these payments made by the division. In that event,  
27 such payments will be credited to the carriers ~~insurance~~  
28 ~~companies~~, and the amount due by the carrier ~~insurance company~~  
29 under this section will be reduced accordingly.

30 (2) The division shall provide by regulation for the  
31 collection of the amounts assessed against each carrier. Such

1 amounts shall be paid within 30 days from the date that notice  
2 is served upon such carrier. If such amounts are not paid  
3 within such period, there may be assessed for each 30 days the  
4 amount so assessed remains unpaid, a civil penalty equal to 10  
5 percent of the amount so unpaid, which shall be collected at  
6 the same time and a part of the amount assessed. The division  
7 may recover underpayments of assessments from a carrier for  
8 assessments levied against that carrier after July 1, 2000.  
9 The division may not recover any past underpayments of  
10 assessments related to ceded reinsurance premiums from a  
11 carrier for assessments levied against that carrier prior to  
12 July 1, 2000.

13 (3) If any carrier fails to pay the amounts assessed  
14 against him or her under the provisions of this section within  
15 60 days from the time such notice is served upon him or her,  
16 the Department of Insurance upon being advised by the division  
17 may suspend or revoke the authorization to insure compensation  
18 in accordance with the procedure in s. 440.38(3)(a). The  
19 division may permit a carrier to remit any underpayment of  
20 assessments for assessments levied after July 1, 2000,  
21 according to a payment schedule approved by the division.

22 Section 4. (1) Effective upon this act becoming a  
23 law, there is created the Task Force on Workers' Compensation  
24 Administration for the purpose of examining the way in which  
25 the workers' compensation system is funded and administered.  
26 The Task Force shall consist of seven members appointed as  
27 follows: three members appointed by the Governor, one of whom  
28 shall serve as chair; two members appointed by the President  
29 of the Senate, and two members appointed by the Speaker of the  
30 House of Representatives. Appointments shall be made no later  
31 than July 1, 2000.

1           (2) The Task Force shall submit recommendations to the  
2 Governor, the President of the Senate, and the Speaker of the  
3 House of Representatives by January 15, 2001 concerning:

4           (a) Whether the administration of the workers'  
5 compensation system should be funded through assessments,  
6 general revenue, or some other source, and to what extent.

7           (b) How the funds should be used to accomplish the  
8 goal of administering the workers' compensation system in the  
9 most cost-effective manner.

10           (c) What services, functions, or entities, including  
11 the Workers' Compensation Oversight Board, should be funded as  
12 part of the administration of the workers' compensation  
13 system.

14           (d) What services and functions, including workplace  
15 safety, if any, should be housed within the Division of  
16 Workers' Compensation.

17           (e) What cost savings could be achieved in the  
18 administration of the workers' compensation system, including  
19 the operations of the Division of Workers' Compensation.

20           (f) What organizational changes affecting the  
21 administration of the workers' compensation system, if any,  
22 should be made to make it more efficient.

23           (3) To assist the task force in its work, the  
24 Executive Office of the Governor shall contract for the  
25 completion of a budgetary and operational analysis of the  
26 Division of Workers' Compensation, detailing the staffing of  
27 the division, receipt and expenditure of revenues,  
28 reliability of financial records and reports, and the  
29 efficiency of internal controls and procedures. The Executive  
30 Office of the Governor shall arrange for the study to be  
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1 completed and transmitted to the task force by September 1,  
2 2000.

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

7 Section 5. If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 invalidity does not affect other provisions or applications of  
10 the act which can be given effect without the invalid  
11 provision or application, and to this end the provisions of  
12 this act are severable.

13 Section 6. Except as otherwise expressly provided in  
14 this act, this act shall take effect July 1, 2000.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 2532

4 The Committee Substitute provides the following:

- 5 1.     Lowers the maximum assessment rate for the Workers'  
6        Compensation Administration Trust Fund from 4 percent to  
7        2.75 percent, effective July 1, 2000. The calculation  
8        for the assessment base would be determined based upon  
9        the anticipated expenses of the Division of Workers'  
10       Compensation for the next calendar year (2001), instead  
11       of the prior fiscal year. For the purpose of calculating  
12       the assessment, carriers would be required to use the  
13       full premium policy reported prior to the application of  
14       deductible discounts or credits and to include ceded  
15       reinsurance premiums in the base used for calculating  
16       the assessment.
- 17 2.     Authorizes the division to recover under payments of  
18       Workers' Compensation Administration Trust Fund  
19       assessments from a carrier for assessments levied  
20       against the carrier after July 1, 2000. The division  
21       would not be authorized to recover any past under  
22       payments of assessments related to ceded reinsurance  
23       premiums from a carrier for assessments levied against  
24       that carrier prior to July 1, 2000.
- 25 3.     Authorizes the inclusion of ceded reinsurance premiums  
26       for the purpose of determining the assessment base for  
27       the Special Disability Trust Fund and calculating the  
28       assessment due.
- 29 4.     Would not require a carrier that excluded ceded  
30       reinsurance premiums from their Special Disability Trust  
31       Fund assessments on or before January 1, 2000, to pay  
      assessments until the Division of Workers' Compensation  
      notified each of these carriers of the impact of  
      including ceded insurance premium on their assessment.  
      The division would not be authorized to recover any past  
      underpayments of Special Disability Trust Fund  
      assessments levied against any carrier that did not  
      include ceded reinsurance premiums in their assessments  
      prior to that point in time that the division advised  
      the carrier of the appropriate assessment that should  
      have been paid.
5.     Creates a Task Force on Workers' Compensation  
      Administration for the purpose of evaluating the method  
      in which the workers' compensation system is funded and  
      administered. The Task Force would be comprised of 3  
      members appointed by the Governor (including 1 member  
      serving as the chair), 2 members appointed by the  
      President of Senate and 2 members appointed by the  
      Speaker of the House of Representatives. A sum of  
      \$250,000 would be appropriated from the Workers'  
      Compensation Administration Trust Fund to the Executive  
      Office of the Governor to conduct a financial and  
      operational analysis of the Division of Workers'  
      Compensation that would be submitted to the Task Force.



1           The Task Force would be required to submit their  
2           recommendations to the Governor, President of the  
3           Senate, and the Speaker of the House of Representatives  
4           by January 15, 2001.  
5           6.    Provides a severability clause so that in the event any  
6           provision of the act or its application to any person is  
7           held invalid, the remaining provisions of the bill would  
8           not be affected.  
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