

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1612

SPONSOR: Banking and Insurance Committee and Senator Posey

SUBJECT: Workers' Compensation

DATE: March 5, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Deffenbaugh	BI	Favorable/CS
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Employers are generally required to provide workers' compensation coverage unless they obtain an exemption from coverage as allowed by law. The bill revises workers' compensation coverage requirements for persons engaged primarily in the construction industry by eliminating exemptions for persons engaged in commercial construction. For any commercial construction job-site estimated to be valued at \$250,000 or greater, a person who is actively engaged in the construction industry would not be considered an independent contractor and would be either an employer or employee and would not be exempt from the coverage requirements of chapter 440, F.S. Exemptions would continue to be available to persons primarily engaged in residential construction.

The bill provides greater enforcement authority for the Division of Workers' Compensation (division). Persons claiming an exemption would be required to maintain certain business records and to provide such records to the division upon request. If such records were not produced within three business days, the division would be authorized to issue a stop-work order. The division would be required to issue a stop-work order within 72 hours of making a determination that a person failed to secure compensation coverage, as required by law. The division would be required, rather than allowed, to assess a penalty in the amount of the premium evaded or up to twice the amount of the premium evaded, or \$1,000, whichever is greater, against employers that failed to secure compensation, as required by ch. 440, F.S.

The bill revises reward eligibility requirements for the Anti-Fraud Reward Program of the Department of Insurance in order to encourage greater participation in the program. The department would be authorized to provide a reward of up to \$25,000 to persons providing information to the department which leads to the arrest and conviction of persons committing insurance fraud.

The bill also revises disclosures on the insurance application form and revises auditing provisions for carriers. The Department of Insurance, in consultation with the Florida Workers Compensation Joint Underwriting Association would be required to conduct a study evaluating the affordability and availability of workers' compensation coverage for persons engaged in the construction industry.

This bill substantially amends the following sections of the Florida Statutes: 440.02, 440.10, 440.103, 440.107, 440.381, 440.40, 489.114, 489.510, and 626.9892

II. Present Situation:

Division of Workers' Compensation

Pursuant to s. 440.015, F.S., the Division of Workers' Compensation, within the Department of Labor and Employment Security, is charged with administering the Workers' Compensation Law in a manner that facilitates the self-execution of the system and the process of ensuring a prompt and cost-effective delivery of payments. The Bureau of Compliance is charged with the responsibility of ensuring that employers, subject to the Workers' Compensation Law, maintain workers' compensation coverage for their employees and maintains records relating to proof of coverage and exemption from coverage.

Election of Exemption from Workers' Compensation Coverage

Employers are generally required to provide workers' compensation coverage, unless they obtain an exemption from coverage.¹ Employers secure workers' compensation coverage by purchasing insurance or meeting the requirements to self-insure.

Each sole proprietor or partner engaged in a non-construction industry is automatically exempt from workers' compensation, unless the person elects to be included in the definition of employee and notifies the division of such an election for coverage. Corporate officers engaged in a non-construction industry who elect to be exempt from coverage must notify the division of such an election.

Corporate officers, partners, and sole proprietors actively engaged in the construction industry may elect to be exempt from the workers compensation system by filing a notice of election to be exempt and providing certain information to the Division of Workers Compensation along with a \$50 filing fee. No more than three corporate officers of a corporation and three partners in a partnership actively engaged in the construction industry may elect to be exempt. For each sole proprietor, corporate officer, or sole proprietor seeking an exemption, the division requires that certain information be submitted, including: (1) all certified or registered licenses issued pursuant to ch. 489, F.S., (2) a copy of documentation as to employment status filed with the Internal Revenue Service, (3) a copy of the occupational license; and (4) the registration number of the corporation or partnership filed with the Division of Corporations of the Department of State, if applicable.

¹ Section 440.38, F.S.

Upon determining that the requirements for exemption are met, the Division of Workers' Compensation issues a certificate of election of exemption that is valid for a 2-year period. For the prior 3 fiscal years, the division has received, on average, 97,383 exemption applications per year. As of September 11, 2001, the division had issued approximately 134,000 construction exemptions. Approximately 56 percent of these exemptions were issued to sole proprietorships, 5 percent to partnerships, and the remaining 39 percent to corporations. However, the Division of Workers' Compensation has the authority to revoke the exemption if the applicant does not meet the requirements for an exemption or if the information is invalid. For fiscal years 1998-99 and 1999-00, the division revoked on average, 1,700 construction exemptions per year.

In 1997, a report issued by the Fourteenth Statewide Grand Jury entitled, *Report on Workers' Compensation Fraud*, prompted the Legislature to address workers' compensation fraud and noncompliance. The Grand Jury report attributed much of the workers' compensation fraud problem to the abuse of exemptions from the workers' compensation system. The report also criticized the lack of enforcement action by the Division of Workers' Compensation. The report made numerous recommendations that were enacted by the Legislature in 1998, including:

1. Requiring local government authorities to confirm compliance with workers' compensation coverage requirements as a condition for issuing each building permit;
2. Requiring construction industry exemptions to be renewed every 2 years and authorizing the Division of Workers' Compensation to deny or revoke such exemptions if the person does not meet the requirements for an exemption or if the information is invalid (Non-construction exemptions would be valid until revoked by the certificate holder or the division and would not be subject to renewal requirements.); and
3. Increasing the criminal penalties associated with workers' compensation fraud based on the amount of the claim or the premium involved in the fraud; (These criminal penalties mirror the penalties contained in the general theft provisions of ch. 812, F.S.)

According to study recently released by the Construction Education Concepts, entitled, *A Study On the Magnitude of Loss of Workers' Compensation Premiums in 1997 Due to Employer Fraud and Exemptions in the Construction Industry* (2001), an estimated \$1.2 - \$2.8 billion in workers' compensation premiums is lost, on annual basis, due to employer premium fraud and exemptions in the construction industry. (The report noted that a conservative estimate of the lost premiums was \$1.3 billion.) In 1999, Florida had an estimated written workers' compensation premium of \$2.5 billion. The report noted that in 1997 construction industry premiums collected totaled \$912,244,160, which was less than the estimated premiums lost attributable to employer fraud and exemptions. In response to a request by committee staff, NCCI evaluated the study and provided the following comments:

The study appears to assume that all construction work is insured through commercial insurance. According to the Division of Workers' Compensation, self-insured employers represented approximately 30 percent of the Florida workers' compensation market in 1997. The \$1.3 billion estimate should be reduced to reflect insurance premiums, which were not required to be paid by self-insured employers. (It is unclear whether the self-insured employers comprise 30 percent of the construction industry.)

NCCI collects limited fraud data is therefore unable to empirically verify Dr. Coble's estimate through any sort of practical check. NCCI suggests that further independent research is needed to test his theories and assumptions.

According to NCCI, the reporting format does provide a data field for fraud reporting, and NCCI's Statistical Plan does provide coding on an optional basis. However, the data is not used due to inconsistent fraud reporting methodology. NCCI indicated that it would be making a filing with the Department of Insurance soon to provide further definition of this fraud-reporting field for claim fraud. A methodology has not been developed for premium fraud or other types of insurance-related fraud.

As mentioned earlier, the Legislature in recent years has provided the Division of Workers' Compensation and the Division of Insurance Fraud with additional enforcement and compliance tools to fight workers' compensation fraud. In 1994 and again in 1997, the Legislature provided the Division of Workers' Compensation, in particular, with new and broader authority to effect compliance with chapter 440, F.S.

As previously noted by the Statewide Grand Jury Report, some of these provisions of ch. 440, F.S., have not been fully implemented by the Division of Workers' Compensation. Although s. 440.107, F.S., authorizes the Division of Workers' Compensation to assess against any employer who fails to obtain coverage the greater of twice the evaded premium for the preceding 3-year period (based on the preceding 3-year period payroll) or \$1,000, the division has stated that the provision does not provide guidance for the division on when to issue such penalties. The division has suggested that specific legislative intent regarding the application of this provision would assist them in the application of this penalty. Presently, the division assesses twice the evaded premium penalty provision on construction and non-construction employers who are repeat violators, rather than all violators. Although the section provides discretionary authority for the division to assess, the division does appear to have the discretionary authority to assess any employer (first instance or subsequent instances of noncompliance), if certain conditions are met (failure to secure coverage).

The Statewide Grand Jury also recommended that the Department of Labor stop considering employers to be in compliance with the law when they purchase coverage clearly insufficient for their employees. In regards to this practice by the Division of Workers' Compensation, the Statewide Grand Jury stated, "We do not believe the Legislature ever intended that an employer who engages in premium fraud should ever be considered by any state agency to be in compliance with Chapter 440 in any way, shape, or form." In response to a recent staff inquiry regarding the implementation of the Grand Jury's recommendations, the division provided the following response as to why this recommendation had not been implemented:

"The Division considers an employer in compliance with the Workers' Compensation Law if the employer has any type of workers' compensation insurance policy or does not exceed the threshold number of employees. An employee who has any valid workers' compensation insurance policy is in civil compliance with ch. 440, F.S., but may be in criminal violation pursuant to s. 440.105(4)(b), F.S. An employer found by the division to be in violation of this section is referred to the Department of Insurance, Division of

Insurance Fraud for prosecution. In addition, the employer is required to provide proof of an insurance policy to the division.”

“If the policy is a minimum premium policy, the division also requests that the employer provide a statement from the carrier, saying that the carrier is satisfied with the premium on the policy and the number of employees covered. The division also submits a report to the carrier including the number of employees found on the employer job site, so that the carrier can make informed business decisions based on the practices of that employer.”

Section 440.10(1)(f), F.S., authorizes the Division of Workers’ Compensation to assess against an employer who willfully fails to secure coverage a penalty not to exceed \$5,000 for each employee of that employer who is classified by the employer as an independent contract but who is found by the division as not meeting the criteria for an independent contractor that is set forth in s. 440.02, F.S. The division has indicated that they consider this provision unenforceable for the following reasons: 1) the section confers discretion on the division to assess a penalty (not to exceed \$5,000) but does not contain a grant of rulemaking authority for the division to establish the exact amount of the penalty; 2) the section requires the division to prove intent of the employer to willfully misclassify an employee; 3) the section conflicts with s. 440.02(14)(d), F.S., which establishes criteria for an independent contractor to not be considered an employee, but does not establish criteria status as an independent contractor as implied by s. 440.10(1)(f), F.S.

According to the division, intent should not be an element of civil infraction. Intent is an element of fraud, and prosecution of fraud under ch. 440, F.S., is within the jurisdiction of the Division of Insurance Fraud of the Department of Insurance, and only could be enforced by Division of Insurance Fraud. The Division of Workers’ Compensation suggests that the term, “willful” should be removed, if it is the intent of the Legislature for the division to enforce the provision as a civil infraction. Presently, s. 440.591, F.S., grants the division authority to adopt rules to implement the provisions of ch. 440, F.S., conferring duties upon it. Therefore, it is unclear why the division would need additional rulemaking authority to adopt rules for implementing the penalty provision.

Many observers of the Florida workers’ compensation system contend that exemptions have become increasingly expensive to administer and burdensome on the public, particularly small businesses. In recent years, the Division of Workers’ Compensation has suggested eliminating the exemptions or significantly streamlining the exemption process by making the exemption from coverage and waiver of such exemption automatic by operation of the law. The Division of Workers’ Compensation has proposed eliminating all exemptions as its primary recommendation. This would allow the division to have complete jurisdiction over employers without coverage and allow the division to immediately shut down such businesses until coverage is obtained. The elimination of the exemption would also remove the division from litigation between employers, carriers, and claimants when the issue of whether a claimant is exempt or entitled to benefits as an employee of an employer. As an alternative, the division is suggesting the elimination of the exemption administrative process by providing that the exemption of all classes of persons eligible for exemption is automatic by operation of the law, and by making rejection of the right to such exemption automatic by the purchase of coverage by or on behalf of an otherwise exempt individual.

The current exemption process requires 20 (including 5 field support) positions and 15 temporary positions to administer the program. Currently, construction industry exemptions are issued for a 2-year period. Presently, the compliance unit has 42 full-time positions (44 are authorized). An additional 14 positions are responsible for administrative-related duties including microfilming. Five positions presently provide customer service.

Each year, the Department of Labor and Employment Security and the Department of Insurance, the Division of Workers' Compensation are required to submit a joint report to the President of the Senate and Speaker of the House of Representatives summarizing their compliance and enforcement activities for the preceding fiscal year. The following statistics regarding their efforts were included in the FY 1999-2000 report:

1. The Division of Workers' Compensation made 1,136 referrals to the Department of Insurance of suspected fraudulent employer activities. These numbers represent an increase of 150 percent in referrals over the prior fiscal year (418).
2. The Division of Workers' Compensation issued 1,264 Stop Work Orders to employers found to be in violation of chapter 440, F.S. The Division of Workers' Compensation also brought 3,106 employers into compliance and caused 13,174 employees previously not covered to become covered. The division estimates that these actions resulted in an additional \$22.8 million in premiums to be paid by employers.
3. During fiscal year 1999-2000, the Division of Insurance Fraud opened 358 cases relating to workers' compensation and arrested 132 individuals for all types of workers' compensation fraud.

As a result of the compliance efforts of the 42 positions in the Division of Workers' Compensation, an average of \$19.4 million in new workers' compensation premiums has been generated on an annual basis during the prior 3 fiscal years. The division generated a total of \$58.2 million in new premiums for fiscal years 1997 through 2000. Based on the results of the division's efforts, given the limited staffing, the extent of noncompliance could be significant.

Investigation and enforcement of compliance with the workers' compensation coverage requirements is reported to be very difficult, especially in the construction industry where an employer's workforce can change daily depending on the size of a job. Moreover, preventing abuses in the exemption process likewise is equally challenging since the status of a person as an independent contractor or employee can change depending on the type of work being done.

The Department of Business and Professional Regulation is responsible for licensing persons engaged in certain construction related occupations, including: general contractors, electrical contractors, building contractors, and roofers. As a condition for receiving an initial license and as a condition for renewing a license, a person must show proof of workers' compensation coverage or an exemption from coverage. In the event the Department of Business and Professional Regulation determines that a licensee does not have workers' compensation coverage, the department is authorized to impose a \$100 citation for failure to maintain coverage. [Rule 61G4-19.001, F.A.C.]

According to the U.S. Department of Labor, 38 states do not authorize any numerical exemptions from workers' compensation coverage based on the number of employees. In New York, sole proprietors with no employees, partnerships with no employees, and corporations owned by one or two persons with no employees are exempt from coverage. The remaining states allow exemptions from coverage for employers with 3-5 employees.

According to a 1997 study conducted by the National Association of Homebuilders, the costs of workers' compensation coverage adds 8.1 percent to the total labor bill for the construction of a new home. This represented approximately \$4,776 of the total costs of a new home.

Recently, the Senate Banking and Insurance Committee staff issued an interim project entitled, How Does the Florida Workers' Compensation System Compare to Other States (2001), which made the following recommendations concerning exemptions:

1. Amend s. 440.10(1)(f), F.S., which authorizes the Division of Workers' Compensation to assess against an employer who willfully fails to secure coverage a penalty not to exceed \$5,000 for each employee who is classified by the employer as an independent contractor, but who is not, by eliminating the term, "willfully," thereby eliminating the need to prove intent.
2. Revise the current exemption requirements by eliminating exemptions below the subcontractor level. All persons contracting with a subcontractor would be required to obtain coverage. Any changes in the exemption requirements should be implemented over several years to ensure that employers understand provisions under the new law.
3. Clarify s. 440.38, F.S., to provide that an employer purchasing inadequate insurance coverage is not in compliance with the coverage requirements of the Workers' Compensation Law.
4. Revise the penalty provisions for contractors licensed under the provisions of chapter 489, F.S., to parallel the Division of Workers' Compensation provisions.

III. Effect of Proposed Changes:

Section 1. Amends s. 440.02, F.S., to revise the exemption eligibility requirements, by eliminating exemptions for persons engaging in commercial construction estimated to be valued at \$250,000 or greater. Exemptions for persons engaged in residential construction would continue to exist.

The definition of the term, "employee," is revised to provide that notwithstanding the provisions of chapter 440, F.S., with respect to any commercial construction job-site estimated to be valued at \$250,000 or greater, a person who is actively engaged in the construction industry is not an independent contractor and is either an employer or employee who may not be exempt from the coverage requirements of this chapter. Any such employee could not elect to be exempt, and any exemption obtained is not applicable, with respect to the work performed at such a commercial job site.

The term, "commercial building," is defined to mean any building or structure intended for commercial or industrial use, or any building intended for multifamily use of more than four dwelling units, as well as any accessory use structures constructed in conjunction with the

principle structure. Commercial building does not include the conversion of any existing residential building to a commercial building. The term, “residential building,” is defined to mean any building or structure intended for residential use containing four or fewer dwelling units any structures intended as an accessory use to the residential structure.

Section 2. Amends s. 440.05, F.S., to require corporate officers, sole proprietors, and partners engaged in the construction industry and claiming an exemption to maintain certain records for a minimum of three years. A corporate officer, sole proprietor or partner claiming an exemption would be required to produce, upon request by the division, a copy of those documents together with a sworn statement that the tax records are true and accurate copies of what was filed with the Internal Revenue Service. The division would be authorized to issue a stop-work order to any person who fails or refuses to produce such information to the division within three business days of such a request.

If a sole proprietor or partner had not been in business long enough to provide the information required of an established business, such as federal tax returns with attachments relating to business activities, the division would require the sole proprietor or partner to submit copies of the most recently filed Federal income tax return. The division would be required to establish by rule such other criteria to establish that the sole proprietor or partner intends to engage in a legitimate enterprise within the construction industry.

Section 3. Amends s. 440.10, F.S., to remove the requirement that the division prove that an employer “willfully” failed to secure compensation, prior to assessing such an employer a penalty for classifying a person as an independent contractor when such a person did not meet the criteria. The division is authorized to adopt rules to administer this provision.

Section 4. Amends s. 440.103, F.S., to require every employer, as a condition of receiving a building permit, to provide proof of compensation coverage or an exemption. The employer would be required to provide a copy of the certificate of insurance, rather than the certificate of coverage. Each certificate of insurance must indicate the states for which coverage applies.

Section 5. Amends s. 440.107, F.S., to revise the division’s enforcements powers and duties. The division would be required to issue a stop-work order within 72 hours of making a determination that a person failed to secure compensation coverage. Currently, the statutes do not specify any specific time frame in which the division must issue such a stop-work order. According to the division, its current practice is that if a person fails to secure compensation, the division immediately issues a stop-work order.

The division would be required, rather than allowed, to assess a penalty in the amount of the premium evaded or up to twice the amount of the premium evaded, or \$1,000, whichever is greater against employers that failed to secure compensation, as required by ch. 440, F.S. Currently, the division may assess a penalty in the amount of twice the premium evaded or \$1,000, whichever is greater. The division is authorized to adopt rules to administer these provisions.

The section also provides that, if the division finds that an employer who is certified or registered under parts I or II of chapter 489, F.S., and who is required to secure compensation and has

failed to do, the division is required to notify the Department of Business and Professional Regulation.

Section 6. Amends s. 440.381, F.S., to revise required disclosures and statements in the insurance application form and auditing provisions. The application would be required to contain a sworn statement by the agent attesting that the agent had explained to the employer or officer of the corporation the classification codes that are used for premium classifications.

If a carrier failed to conduct annual on-site audits of employers engaged in construction, the carrier would be considered to be in violation of the Insurance Code, as provided in s. 624.4211, F.S., and would be assessed a fine in the amount of \$1,000 for each instance of noncompliance. Presently, there is no penalty on the carrier for not conducting such annual audits. At the completion of an audit, the employer or officer of the corporation would be required print and sign their names on the audit document and attach proof of identification to the audit document.

Section 7. Amends s. 440.40, F.S., to require every employer to post a notice relating to the Department of Insurance Anti-Fraud Program at his or her place of business. This notice would state,

“Rewards of up to \$25,000 may be paid to persons providing information to the Department of Insurance leading to the arrest and conviction of persons committing insurance fraud, including employers who illegally fail to obtain workers’ compensation coverage. persons may report suspected fraud to the department at (Phone no.). A person is not subject to civil liability for furnishing such information, if such persons act without malice, fraud, or bad faith.”

Section 8. Amends s. 489.114, F.S., to require the Department of Business and Professional Regulation to impose an administrative fine in the amount of \$500 on a contractor for failure to maintain workers’ compensation coverage. Currently, persons are subject to a \$100 citation.

Section 9. Amends s. 489.114, F.S., to require the Department of Business and Professional Regulation to impose an administrative fine in the amount of \$500 on a electrical or alarm system contractor for failure to maintain workers’ compensation coverage. Currently, persons are subject to a \$100 citation.

Section 10. Amends 626.9892, F.S., relating to the Anti-Fraud Reward Program, to revise the eligibility requirements for persons seeking a reward from the program. The section would allow the Department of Insurance to pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes, rather than “complex or organized crimes,” investigated by the department.

Section 11. Requires the Department of Insurance, in consultation with the board of governors of the Florida Workers’ Compensation Joint Underwriting Association, to conduct a study to evaluate the availability and affordability of workers’ compensation coverage for person engaged primarily in the construction industry. The scope of the study would include a review of workers’ compensation coverage currently provided or required in other states and possible alternative

coverage. The department would be required to submit a report with recommendations to the Legislature on or before February 1, 2003.

Section 12. Provides that this act would take effect July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Indeterminate. Persons engaged in commercial construction that presently elect to be exempt from coverage would no longer be eligible for an exemption and, therefore, would no longer pay a \$50 biennial fee to the division.

B. Private Sector Impact:

Start-up business as (engaged in residential construction) would be eligible to obtain an exemption from coverage immediately, since they would no longer be required as provided in current division rules, to provide federal tax returns documenting that they had no business payroll or employees subject to coverage requirements. Subsequently, upon renewal of the exemption, the business would be required to submit federal income tax returns with the accompanying schedules documenting business activities.

Persons primarily engaged in commercial construction would no longer be eligible for exemptions from workers' compensation coverage and would be required to obtain coverage.

If a person failed to obtain coverage, the division would be required to impose a penalty for the amount of the premium evaded and up to twice premium evaded, or \$1,000, whichever is greater. Presently, the division has the discretion as to imposing this penalty provision in the amount of twice the premium evaded or \$1,000, whichever is greater.

It is indeterminate what impact the changes in the exemption law will have upon workers' compensation insurance rates. The bill continues exemptions for persons

primarily engaged in residential construction; however, the bill eliminates exemptions for persons engaged primarily in commercial construction.

NCCI recently provided an estimated rate impact of eliminating *all* workers' compensation construction exemptions. The following information was provided by NCCI:

Data Estimates

Total Annual Construction Payroll = \$6.9 billion (from NCCI's 1/1/02 rate filing)
 Estimated Payroll of Currently Exempt policies = \$3.22 billion
 \$3.22 billion developed as follows:

# Exempt policies:	129,389	(Div of WC construction exemptions as of 12/31/01)
x Avg annual wage	<u>\$24,908</u>	(from 1997 to correspond to payroll period above)
=	\$3.22 billion	

Key Assumptions

(1) Compliance

As we are unable to reliably estimate the proportion of the currently exempt contractors that would comply with a new law (that removed all exemptions) and buy insurance, we have assumed varying levels of compliance for illustration purposes. Assumptions of 10 percent, 25 percent, 50 percent, 75 percent and 90 percent were tested. 0% assumes none of the currently exempt contractors would comply. 100% assumes all of the currently exempt contractors would comply. 50% assumes half would comply.

(2) Additional Loss Offset

Bringing in additional payroll will not necessarily lower the indicated rate level to the extent that corresponding exposure and losses are also brought into the system. As we are unable to reliably estimate the extent to which the additional payroll will be offset by additional exposure and losses, we have assumed varying levels of offsets for illustration purposes. Assumptions of 10%, 25%, 50%, 75% and 90% were tested. 0% assumes all losses were already in the system and there will be no new losses to the system. 100% assumes none of the losses were already in the system and all losses will be new to the system. 50% assumes half of the losses were already in the system and half are new to the system.

Estimated Premium Impact

Shown below is the additional contractors premium that would result based on the compliance assumptions which were tested.

Compliance Assumption	Additional Premium
10 percent	\$58 M
25 percent	\$144 M
50 percent	\$288 M
75 percent	\$432 M
90 percent	\$519 M

Estimated Rate Impact

The resulting additional premium will allow for a rate reduction for contractors classifications. The amount of the rate reduction will depend on the extent of compliance with the new law and on the amount of additional exposure that is also brought into the system.

The impact of this bill will vary considerably depending upon the level of compliance achieved and the amount of additional exposure and losses that may accompany any additional policies.

Since there is too much uncertainty involved with the level of compliance and with the additional losses that may result, obtaining preliminary data after the effective date of this bill will be critical in determining an impact. The necessary data elements are: (1) the number of contractor policies (to gauge the level of compliance) and early loss reports from contractor policies - such as First Reports Of Injury (to gauge the additional amount of losses that will also enter the system).”

C. Government Sector Impact:

Presently, exemptions are issued to a person. The bill would effectively limit construction exemptions to a residential construction job-site only. The division would still be required to determine whether an exemption at a residential job-site was valid; however, enforcement efforts at commercial job sites would be streamlined, since all persons at the job site would be required to obtain coverage.

The Division of Workers’ Compensation would be required to issue stop-work orders within 72 hours of a determination of noncompliance. According to the division this provision would not have any fiscal impact, since stop-work orders are issued immediately upon such a determination.

Since exemptions would no longer be available for persons engaged in commercial construction, the division would experience an indeterminate loss of revenues associated with the biennial exemption filing fee of \$50 for such persons.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
