



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

Florida law provides several exemptions and exceptions from the mandatory provisions of the workers' compensation system. Exemptions require the exempt employer to elect the exemption and opt out of the mandatory coverage. Exceptions require no action by the excepted employer. The law distinguishes exemptions for non-construction industries from those for the construction industry. For non-construction industries, coverage is required for all public employers and for all private employers with four or more employees, with some specific exceptions and exemptions (not relevant to this bill). For the construction industry, employers with one or more employees must obtain coverage, with specific exemptions for sole proprietors, partners, and corporate officers.

Coverage requirements for the construction industry are treated differently due to the nature of the hazardous work performed on construction job sites and its mobile nature. With greater risks come higher premiums and more pressure to avoid obtaining coverage. Employers are said to exploit these exemptions in various ways, such as classifying workers as owners, partners, and corporate officers, thus avoiding the payment of premiums. With so many premium dollars lost to the system, remaining employers who obtain the required coverage pay higher premiums. Injured employees of employers without coverage sue the employer and may end up suing and collecting damages from the homeowner.

In the 2002 Regular Legislative Session, chapter 2002-236, Laws of Florida (SB 108), relating to workers' compensation was enacted. Among its provisions was a limitation prohibiting exempt employers from working on commercial construction jobs valued over \$250,000. While the goal was to address exemptions in a positive manner, one result was to prohibit numerous small employers from working on these large jobs, even though their portion of the contract could be very small. The bill repeals this limitation.

The bill limits exemptions in the construction industry to no more than three corporate officers and requires each exempt officer to own at least 10 percent of the corporation. The bill repeals exemptions for sole proprietors or partners in the construction industry. The bill clarifies definitions of "construction industry," "employee," and "employer." The bill repeals definitions of "commercial building" and "residential building." The bill revises provisions relating to independent contractors for purposes of exemptions.

Speaker Byrd appointed a Select Committee on Workers' Compensation in January 2003. The Select Committee met in February and March, hearing a great deal of testimony regarding fraud and how exemptions play a large role in certain types of premium fraud. The provisions of this bill are among the final recommendations made by the Select Committee.

The Governor's Commission on Workers' Compensation Reform, created following last year's Legislative Session, issued its report on January 31, 2003. The provisions of this bill are among the Commission's final recommendations.

C. SECTION DIRECTORY:

Section 1: Amends s. 440.02, F.S., relating to definitions.

Section 2: Amends s. 440.05, F.S., relating to election of exemptions.

Section 3: Amends s. 440.077, F.S., relating to exemptions for corporate officers.

Section 4: Amends s. 440.10, F.S., relating to employer liability for securing compensation benefits.

Section 5: Provides that the act takes effect upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill has no direct impact on local government revenues.

2. Expenditures:

The bill has no direct impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill is intended to have a positive economic impact on the private sector. The current market conditions for workers' compensation insurance are causing great concern for all businesses in Florida. The bill should reduce costs for insurers by eliminating many exemptions in the construction industry that have been abused. This will reduce fraud and return premium dollars to the system.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require cities or counties to spend funds or take an action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.