

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 693 w/CS Florida Workers' Compensation Insurance Guaranty Association

**SPONSOR(S):** Hasner, Troutman

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1766

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Regulation (Sub)	8 Y, 0 N	Thomas	Schulte
2) Insurance	17 Y, 0 N w/CS	Thomas	Schulte
3) Commerce & Local Affairs Apps. (Sub)			
4) Appropriations			
5)			

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### SUMMARY ANALYSIS

The purpose of the Florida Workers' Compensation Insurance Guaranty Association is to provide for the payment of covered claims and benefits to injured workers in the event of the insolvency of an insurer. The association pays the claims of insolvent workers' compensation insurers and self-insurance funds, but does not pay claims for insolvent individually self-insured employers.

The association is funded through annual assessments levied on workers' compensation insurers and self-insurance funds. Assessments are capped at 2 percent of Florida net direct written premium for insurers and 1.5 percent of Florida net direct written premium for self-insurance funds. Assessments are currently being made at the maximum assessment rates. The association projects that, based on current and anticipated insurer insolvencies, it will be operating in a deficit by January 2004.

The bill requires assessments made by the Florida Workers' Compensation Guaranty Association to be based on the full policy premium value of workers' compensation insurance policies without taking into account credit or offset for the deductible portion of the policy, if any.

The bill does not have a fiscal impact on state or local government.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0693b.in.doc

**DATE:** April 16, 2003

## 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:

In general, when the assets of an insolvent insurer are insufficient to pay claims, the claims are paid in whole or in part by a guaranty fund. Guaranty funds are funded by assessments on solvent insurers. For workers' compensation insurers in Florida, the appropriate guaranty fund is the Florida Workers' Compensation Insurance Guaranty Association. Florida is one of only two states to have a separate guaranty fund for workers' compensation insurers.

The purpose of the Florida Workers' Compensation Guaranty is to provide for the payment of covered claims and benefits to injured workers in the event of the insolvency of a member insurer. The association was created in 1997 by merging the Florida Self-Insurance Fund Guaranty Association and the workers' compensation account of the Florida Insurance Guaranty Association. The association evaluates workers' compensation claims made by injured employees against insolvent member companies or funds and determines if such claims are covered claims that should be paid or settled with association funds. The association pays the claims of insolvent workers' compensation insurers and self-insurance funds, but does not pay claims for insolvent individually self-insured employers.

In order to keep its fund solvent, the association determines whether an assessment against its members is necessary to pay covered claims or to reimburse the association for its administrative expenses. Section 631.941, F.S., provides the association with the authority to annually assess self-insurance funds at a rate of up to 1.5 percent, and all other insurers at a rate of up to 2 percent, of annual net direct written premium for workers' compensation policies in Florida. Assessments are currently being made at the maximum assessment rates of 1.5 percent (self-insurance funds) and 2 percent (all others) annually. In 1999, the Legislature granted the association additional assessment authority of up to 1.5 percent of premiums if assessments otherwise authorized are insufficient to make all payments on reimbursements then owing; however, this authority has not been used.

For calendar year 2003, the association projects it will take in approximately \$61,286,188 in revenues, and, based on current and projected insolvencies, it will expend approximately \$128,236,891. With \$52,136,675 in cash on January 1, 2003, the association estimates it will be operating in a deficit by January of 2004. The recent insolvency of a very large insurer, Reliance, has caused a major unanticipated drain on the guaranty fund. The association anticipates the insolvency of another large insurer this year. Currently, the association has outstanding reserves of \$372,340,318, and is handling the estates of 54 insolvent insurers and 2,874 open claims by injured workers.

The bill addresses the association's financial projections by expanding the assessment base for the association to include the full policy premium value of workers' compensation insurance policies without taking into account credit or offset for the deductible portion of the policy, if any.

The bill amends s. 631.913, F.S., to provide that the association's obligation to return any unearned premium to an employer shall not exceed \$50,000 per policy.

The bill amends section 631.924, F.S., to extend this section's application regarding the mandatory stay of proceedings regarding insolvent self-insurers to include proceedings against insolvent insurers.

C. SECTION DIRECTORY:

Section 1: Amends s. 631.913, F.S., relating to the powers and duties of the Florida Workers' Compensation Insurance Guaranty Association, Inc.

Section 2: Amends s. 631.914, F.S., relating to assessments made by the association.

Section 3: Amends s. 631.924, F.S., relating to the stay and reopening of proceedings involving insolvent insurers.

Section 4: Provides an effective date of 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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires assessments made by the Florida Workers' Compensation Guaranty Association to be based on the full policy premium value of workers' compensation insurance policies without taking into account credit or offset for the deductible portion of the policy, if any. The bill is intended to eliminate the need for increased assessments against all workers' compensation insurers and self-insurance funds. Policies with large deductibles will see increased assessments, however, others will benefit from the expanded assessment base.

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

The committee substitute requires assessments made by the Florida Workers' Compensation Guaranty Association to be based on the full policy premium value of workers' compensation insurance policies without taking into account any credit or offset for the deductible. The following provisions were maintained from the original bill:

- The association's obligation to return any unearned premium to an employer shall not exceed \$50,000 per policy; and
- Section 631.924, F.S., is amended to extend this section's application regarding the mandatory stay of proceedings regarding insolvent self-insurers to include proceedings against insolvent insurers.