HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1161 Group Self-Insurance Funds

SPONSOR(S): Jobs & Entrepreneurship Council/Brown
TIED BILLS: **IDEN./SIM. BILLS:** SB 2462

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Insurance	13 Y, 0 N	Callaway/Topp	Overton
2) Jobs & Entrepreneurship Council	14 Y, 0 N, As CS	Callaway/Topp	Thorn
3)			
4)			
5)			

SUMMARY ANALYSIS

Section 624.4621, F.S. allows two or more employers to pool their liabilities under the workers' compensation act and form a group self-insurance fund (fund). There are four active authorized group self-insurance funds currently in Florida. All members of a self-insurance fund must have common interest. The Financial Services Commission through the Office of Insurance Regulation (OIR) has promulgated extensive rules dealing with self-insurance funds. A basic requirement is that the fund must have, and will continue to have, the financial strength to pay claims.

Under current law, if a group self-insurance fund has surplus monies for a year in excess of the amount necessary to fulfill the obligations of the fund, the surplus monies may be refunded to fund members in the form of dividends. The trustees of the fund determine whether payment of a dividend is warranted. Before a dividend can be distributed to fund members, the fund must provide financial information about the fund to the OIR and obtain approval for the dividend distribution from the OIR. The OIR has sixty days to approve the dividend distribution or the distribution is deemed approved. A fund cannot require continued membership in the fund or renewal of a workers' compensation policy with the fund in order for a fund member to receive a dividend.

The bill amends current law relating to the process by which group self-insurance funds pay dividends to members. It does not change what type of dividends are payable and it maintains authority for the fund trustees to decide whether to pay dividends to the fund members. The bill changes current law by allowing the trustees of the fund established prior to June 1, 2008 to distribute fund dividends to fund members without prior approval of the OIR but with notification to the OIR of the dividend distribution within 10 days of the distribution. The self-insurance fund must also provide certain information and records to the OIR to support the dividend payment. The bill restricts the amount of dividends distributed to no more than the sum total of the dividends declared and recorded on the current audited financial statement of the fund. There is no restriction on dividend amount in current law. In addition, the bill prohibits the distribution of dividends to jeopardize the financial condition of the fund. Current law does not specify this restriction either. The bill maintains current law prohibiting funds to require continued membership in the fund or renewal of a workers' compensation policy with the fund in order for the fund member to receive a dividend.

The bill requires funds established on or after June 1, 2008 to obtain approval by the OIR before distributing dividends during the first seven years the fund is in operation. The OIR has sixty days to approve the dividend distribution.

The bill is effective “upon becoming a law.”

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Florida Workers' Compensation Act (ch. 440) requires employers to "secure the payment of compensation" in two ways. The first way is buying an insurance policy from an authorized insurance company, either directly or through the Joint Underwriting Association. The second way is qualifying as a self-insurer, either individually or as a member of a self-insurance fund. "Securing the payment of workers' compensation" means obtaining coverage that meets the requirements of the workers' compensation statutes and the Florida Insurance Code.

Section 624.4621, F.S. allows two or more employers to pool their liabilities under the workers' compensation act and form a group self-insurance fund (fund). There are four active authorized group self-insurance funds currently in Florida.[1]

All members of a self-insurance fund must have common interest. The Financial Services Commission through the Office of Insurance Regulation (OIR) has promulgated extensive rules dealing with self-insurance funds.[2] A basic requirement is that the fund must have, and will continue to have, the financial strength to pay claims. Further, all self-insurance funds must join the Florida Workers' Compensation Guaranty Association (Guaranty Fund). In the event a self-insured fund becomes insolvent, the Guaranty Fund takes over handling and paying the employer's claims, thus assuring the injured worker continues to receive workers' compensation benefits. Most self-insurance funds contract with licensed service companies to adjust workers' compensation claims made against the fund.

Under current law, if a group self-insurance fund has surplus monies for a year in excess of the amount necessary to fulfill the obligations of the fund, the surplus monies may be refunded to fund members in the form of dividends. The trustees of the fund determine whether payment of a dividend is warranted. Premium dividends are only payable to fund members (employers) who paid premium to the fund during the year the profit occurred, however, investment income dividends are payable to any fund member meeting specified criteria.[3] Before a dividend can be distributed to fund members, the fund must provide financial information about the fund to the OIR and obtain approval for the dividend distribution from the OIR.[4] The OIR has sixty days to approve the dividend distribution or the distribution is deemed approved. A fund cannot require continued membership in the fund or renewal of a workers' compensation policy with the fund in order for a fund member to receive a dividend.

The bill amends current law relating to the process by which group self-insurance funds pay dividends to members. It does not change what type of dividends are payable and it maintains authority for the fund trustees to decide whether to pay dividends to the fund members. The bill changes current law by allowing the trustees of the fund established prior to June 1, 2008 to distribute fund dividends to fund members <u>without</u> prior approval of the OIR but with notification to the OIR of the dividend distribution within 10 days of the distribution. The self-insurance fund must also provide certain information and records to the OIR to support the dividend payment. The bill restricts the amount of dividends distributed to no more than the sum total of the dividends declared and recorded on the current audited financial statement of the fund. There is no restriction on dividend amount in current law. In addition,

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[1] http://www.floir.com/CompanySearch/ (search for licensed group self-insurance funds last viewed on March 5, 2008).
[2] Rule 69O-190.056 – 69O-190.074, F.A.C.
[3] Rule 69O-190.065(2), F.A.C.
[4] Section 624.4621(5), F.S. (2007).

the bill prohibits the distribution of dividends to jeopardize the financial condition of the fund. Current law does not specify this restriction either. The bill maintains current law prohibiting funds to require continued membership in the fund or renewal of a workers' compensation policy with the fund in order for the fund member to receive a dividend.

The bill requires funds established on or after June 1, 2008 to obtain approval by the OIR before distributing dividends during the first seven years the fund is in operation. The OIR has sixty days to approve the dividend distribution.

C. SECTION DIRECTORY:

Section 1: Amends s. 624.4621 relating to group self-insurance funds.

Section 2: Provides an effective 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:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply because this bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 13, 2008, the Committee on Insurance heard the bill, adopted one amendment, and reported the bill favorably. The amendment removed the section of the bill relating to independent educational institution self-insurance funds.

On March 27, 2008, the Jobs and Entrepreneurship Council heard the bill, adopted a strike all amendment, and reported the bill favorably with a council substitute. The amendment clarified that only group self-insurance funds established prior to June 1, 2008 can distribute dividends without prior approval from the OIR. Group self-insurance funds established on or after June 1, 2008 must obtain OIR approval before distributing dividends for the first seven years of operation. The OIR has sixty days to issue a decision relating to the dividend distribution for such funds. The staff analysis was updated to reflect the council substitute.