HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4149 Preferred Worker Program
SPONSOR(S): Boyd
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	15 Y, 0 N	Read	Cooper
2) Economic Affairs Committee			

SUMMARY ANALYSIS

The Preferred Worker Program (PWP) is a program created by the Legislature that became effective January 1, 1994. The program provides financial incentives to employers to hire employees that are unable to return to their previous employment because of permanent physical disability resulting from a compensable, workplace injury. The financial incentive for hiring such workers was reimbursement of workers' compensation insurance premiums corresponding to the premium that the employer pays to cover the preferred worker. This reimbursement of insurance premiums was to be paid by the Chief Financial Officer from a special fund known as the Special Disability Trust Fund (SDTF). The PWP also provides that the Department of Financial Services and the Department of Education have rulemaking authority to implement the program.

In 1997 the Legislature amended section 440.49, F.S., to provide that the SDTF would not disperse funds for accidents that occurred after January 1, 1998. This limitation severely restricted the PWP because employers were only able to receive reimbursements if the accident giving rise to the claim occurred before January 1, 1998. In addition, because rule 69L-11.006, F.A.C., requires that an application for PWP benefits must be filed within two years of the employee's workplace accident, any possible claimants that did not file for inclusion in the PWP by January 1, 2000 are unable to be categorized as preferred workers. Lastly, section 440.49(8), F.S., permits employer reimbursement for only 3 years. The combined effect of these changes led to the final payments being made pursuant to the program in 2000.

The repeal of section 440.49(8), F.S., will remove a section from the Florida Statutes that is currently of no legal effect. This is because the legal mechanisms used to implement the program have been amended in such a way as to make the program an anachronism.

The bill is expected to have no fiscal impact.

The bill becomes effective July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

The PWP is a program created by the Legislature that provides financial incentives to employers to hire employees that are unable to return to their previous employment because of permanent physical disability resulting from a compensable, workplace injury.[1] The financial incentive for hiring such workers was reimbursement of workers' compensation insurance premiums corresponding to the premium that the employer pays to cover the preferred worker.[2] This reimbursement of insurance premiums was to be paid by the Chief Financial Officer from a special fund known as the Special Disability Trust Fund (SDTF).[3] The PWP provides that the Department of Financial Services and the Department of Education have rulemaking authority to implement the program.

In 1997 the Legislature amended section 440.49, F.S., to provide that the SDTF would not disperse funds for accidents that occurred after January 1, 1998.[4] This limitation severely restricted the PWP because employers were only able to receive reimbursements if the accident giving rise to the claim occurred before January 1, 1998.[5] In addition, because rule 69L-11.006, F.A.C., requires that an application for PWP benefits must be filed within two years of the employee's workplace accident, any possible claimants that did not file for inclusion in the PWP by January 1, 2000 are unable to be categorized as preferred workers. Lastly, section 440.49(8), F.S., permits employer reimbursement for only 3 years. The combined effect of these changes led to the final payments being made pursuant to the PWP in 2000.[6]

Effect of Proposed Changes:

The repeal of Section 440.49(8), F.S., will remove a section from the Florida Statutes that is currently of no legal effect. This is because the legal mechanisms used to implement the program have been amended in such a way as to make the program an anachronism.[7]

B. SECTION DIRECTORY:

Section 1: Repeals section 440.49(8), F.S., and amends cross-references in section 440.49, F.S.

Section 2: Amends a cross-reference in section 440.50, F.S.

Section 3: Amends a cross-reference in section 440.50, F.S.

Section 4: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

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[1] The program became effective January 1, 1994.
[2] Section 440.49(8), F.S.
[3] Section 440.49(8), F.S.
[4] Department of Financial Services indicated in the agency analysis that only 9 reimbursement claims had ever been filed before the legislature stopped funding the program.
[5] Section 440.49(11), F.S.
[6] Department of Financial Services bill analysis.
[7] *See* Section 440.49(11), F.S., and Rule 69L-11.006, F.A.C.

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:

   Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities 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:

The section of the Florida Statutes to be repealed contains rulemaking authority for implementing the PWP. The rules created to implement this program were promulgated on November 29, 1994. The rules are currently contained in chapter 69L-11, F.A.C.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.