HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4169 Insurance Company Excess Profits
SPONSOR(S): Davis
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	11 Y, 3 N	Reilly	Cooper
2) Economic Affairs Committee			

SUMMARY ANALYSIS

In Florida, workers' compensation insurers do not file their own rates. Rather, rate filings are made by the National Council on Compensation Insurance, the designated licensed rating and statistical organization for Florida's workers' compensation insurers. Workers' compensation rate filings are submitted to the Office of Insurance Regulation (OIR) and ultimately either approved or disapproved after a public hearing.

Pursuant to s. 627.215, F.S., workers' compensation insurers (and insurers in specified other lines) are required to return excess profits to the businesses they insure. The law requires companies to report the following data to the OIR: calendar year earned premium; accident year incurred losses and loss adjustment expenses; administrative and selling expenses incurred in Florida or allocated to the state for the calendar year; and policyholder dividends applicable to the calendar year. An excess profit is realized if an insurer's underwriting gains are greater than the anticipated underwriting profit, plus five percent, for the three most recent calendar years. Insurers that realize excess profits are required to issue refunds to policyholders in the form of cash or a credit. The OIR reports that workers' compensation insurers have returned over $200 million in excess profits to their policyholders since 2003.

The bill excludes workers' compensation insurers from excess profit provisions. The excess profit law for workers' compensation was enacted in 1979 to coincide with the implementation of a wage-loss benefit reform (no longer utilized) to protect employers by ensuring that excess profits generated by the expected reduction in benefits for injured workers were returned to employers.

Supporters of the excess profit law believe that it is important because it protects against potential shortcomings in the promulgated rate system that may lead to a windfall for certain employers. Opponents of the excess profit law believe that since rates are set by the state, and not by the insurance company, the law penalizes insurers for efficiencies that allow them to realize higher profits than competitors. Opponents also believe that elimination of the excess profit law would encourage more insurers to write workers' compensation insurance in Florida.

The bill has no fiscal impact on state and local government. Workers' compensation insurers will be able to retain any profits realized, and insured businesses will no longer receive refunds based on an insurer's excess profits.

The law is effective July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Workers' Compensation Premiums in Florida

In Florida, workers' compensation insurers do not file their own rates. Rather, rate filings are made by the National Council on Compensation Insurance, the designated licensed rating and statistical organization for Florida's workers' compensation insurers. Workers' compensation rate filings are submitted to the Office of Insurance Regulation (OIR) and ultimately either approved or disapproved after a public hearing.

Excess Profits Law

Pursuant to s. 627.215, F.S., workers' compensation insurers (and insurers in specified other lines) are required to return "excess profits" to the businesses they insure. The law requires companies to report the following data to the OIR: calendar year earned premium; accident year incurred losses and loss adjustment expenses; administrative and selling expenses incurred in Florida or allocated to the state for the calendar year; and policyholder dividends applicable to the calendar year. An excess profit is realized if an insurer's underwriting gains are greater than the anticipated underwriting profit, plus five percent, for the three most recent calendar years. Insurers that realize excess profits are required to issue refunds to policyholders in the form of cash or a credit. The OIR reports that workers' compensation insurers have returned over $200 million in excess profits to their policyholders since 2003.[1]

The excess profit law for workers' compensation was enacted in 1979 to coincide with the implementation of a wage-loss benefit reform (no longer utilized) to protect employers by ensuring that excess profits generated by the expected reduction in benefits for injured workers' were returned to employers.

Effect of the Bill

The bill excludes workers' compensation insurers from excess profit provisions.

B. SECTION DIRECTORY:

Section 1. Amends s. 627.215, F.S., to exclude workers' compensation from excess profit provisions.

Section 2. Amends s. 628.6017, F.S., to provide a conforming change.

Section 3. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

[1] OIR analysis of HB 4169, dated January 5, 2012. On file with staff of the Insurance & Banking Subcommittee.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Insurers that most effectively manage their risks will be able to retain additional profits realized from their efforts. Additional workers' compensation insurers will likely consider writing business in the state as the limitation on excess profits is removed.

Businesses will no longer be entitled to refunds that resulted from an insurer's excess profits.

D. FISCAL COMMENTS:

Insurers will be able to retain higher profits that otherwise would have been returned to employers.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

To eliminate uncertainty and avoid litigation, it may be useful to include language that excess profits for workers' compensation and employers liability is eliminated for any years that are required to be filed on July 1, 2012 and subsequently, but that excess profits for prior years are not affected by the bill.

Supporters of the excess profit law believe that it is important because it protects against potential shortcomings in the promulgated rate system that may lead to a windfall for certain employers. Opponents believe that since rates are set by the state, and not by the insurance company, the law penalizes insurers for efficiencies that allow them to realize higher profits than competitors. Opponents also believe that elimination of the excess profit law would encourage more insurers to write workers' compensation insurance in Florida.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.