

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Banking and Insurance Committee

BILL: SB 1826

INTRODUCER: Senator Hays

SUBJECT: Workers' Compensation

DATE: March 25, 2011

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Arzillo | Burgess | BI | Pre-meeting |
| 2. | | | BC | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

The bill removes outdated and obsolete language relating to workers' compensation under ch. 627, F.S. The bill repeals obsolete language creating a workers' compensation administrator that has not been filled within the Office of Insurance Regulation (OIR). The bill also removes outdated language for rerating workers' compensation policies to conform to the tier system created in 2004.

This bill amends the following section of the Florida Statutes: 627.312. The bill repeals the following section of the Florida Statutes: 627.092.

II. Present Situation:

Workers' Compensation Administrator

Section 627.092, F.S. creates the position of Workers' Compensation Administrator within the OIR to monitor insurance company compliance with workers' compensation laws. Currently, OIR does not have an employee designated as the Workers' Compensation Administrator because the Department of Financial Services (DFS) is responsible for overall monitoring and auditing of the performance of workers' compensation insurance companies.¹

Florida Workers' Compensation Joint Underwriting Association (FWCJUA)

The FWCJUA was created in 1993 and began writing claims on January 1, 1994. The FWCJUA is an insurer of last resort, which provides workers' compensation insurance for those employers who cannot obtain it in the private market. Until July 2003, the FWCJUA had three rating plans

¹ See ch. 440, F.S.

for various classifications of risk.² All three plans had to maintain actuarially sound rates but the rate charged varied depending on the plan, in accordance with the risk characteristics of the employers obtaining workers' compensation insurance.

In 2003, the Legislature established Subplan D within the FWCJUA. This Subplan provided workers' compensation coverage for small employers, with 15 or fewer employees, and charitable organizations. However, rates for Subplan D were capped as a percentage over the voluntary market rates and were not required to be actuarially sound.³ Consequently, in 2004, Subplan D generated a substantial deficit. In order to fix the deficit, employers in Subplan D were additionally assessed.

In response, in 2004, the Legislature created legislation to defray Subplan D before the employers in the Subplan were assessed.⁴ The changes were meant to reduce and eliminate the deficit in Subplan D and to ensure that no future deficits in the FWCJUA occurred. Therefore, the employers in Subplan D were not assessed for the Subplan D deficit.

In addition to funding Subplan D, the Legislature created a three-tier rating system to replace the subplan rating system. The tiers better defined employer risk to ensure the employers were placed in the correct risk pool.⁵ The new rating system provides the FWCJUA with a premium better associated with the employers' risk.⁶

Section 627.312(2), F.S. was enacted to guide the transition from the Subplan rating system to the tier rating system by the FWCJUA. This section required FWCJUA policies in effect between May 28, 2004⁷ and June 30, 2004⁸ to be transferred from the subplan rating system to the tier rating system and rerated for premium purposes.⁹

III. Effect of Proposed Changes:

Section 1 repeals s. 627.092, F.S., because the OIR does not monitor or audit workers' compensation insurance companies and does not employ a Workers' Compensation Administrator. The DFS maintains the Bureau of Monitoring and Audit within the Division of Workers' Compensation which performs the functions set out for the Workers' Compensation Administrator in s. 627.092, F.S. Therefore, the bill repeals obsolete language.

Section 2 deletes language from s. 627.312, F.S., because it is obsolete. Section 627.312(2), F.S. was created to transition the workers' compensation insurance plans under the FWCJUA from the Subplan system to the tier system. The law required that all plans in effect between March 28 and June 30, 2004, were rerated and transferred to the tier system. FWCJUA rerated

² The risk ratings were: Subplan A, Subplan B and Subplan C.

³ Rates for policies in Subplan D were priced at the voluntary market rate with a surcharge not to exceed 25%. However, the surcharge for those organizations exempt from federal income tax under 501(c)(3) was not to exceed 10%.

⁴ See ch. 2004-266, L.O.F. See also HB 1251 (2004).

⁵ See id.

⁶ Each of the tiers are now required to be actuarially sound.

⁷ The date HB 1251 (2004) became law.

⁸ The date HB 1251 (2004) was enacted.

and transitioned all of its policies by July 1, 2004. Therefore, the bill deletes this obsolete language.

Other Potential Implications:

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
