

Committee on Banking and Insurance

CS/HB 723 — Reciprocity of Workers' Compensation Claims

by Insurance and Banking Subcommittee; and Rep. Weinstein and others (CS/CS/SB 1286 by Budget Committee; Banking and Insurance Committee; and Senator Bennett)

In Florida, the workers' compensation process is governed by ch. 440, F.S., which provides a detailed framework for coverage and benefit issues, as well as the process for resolving disputes. These provisions are specific to Florida and may be substantially different than those in other states. Section 440.09(1)(d), F.S., provides that if a Florida employee is injured while employed outside of Florida, and the injury would entitle the employee or dependents to compensation if it had happened in this state, the employee or his or her dependents are entitled to compensation. If, however, the employee receives compensation or damages under the laws of any other state, the total compensation for the injury may not be greater than is provided in ch. 440, F.S.

Recently, however, a number of Florida employees, most notably former professional athletes, have begun to file for benefits under the workers' compensation laws of other states, particularly California. The claims are based on the premise that, although the employer and primary employment is in Florida, the injury was sustained in the other state.

The bill creates a process for reciprocity designed to ensure that if a Florida employee is injured in the course of employment while temporarily in another state, that employee is entitled to receive only the benefits required under Florida law, and not the benefits required by the law of the other state. To accomplish this purpose, the bill creates s. 440.094, F.S., to provide the following.

- If a Florida employee temporarily leaves the state incidental to his or her employment and is injured in the course of employment, that employee, or beneficiaries if the injury results in death, is entitled to the benefits as if the employee were injured in Florida.
- If an employee from another state is injured incidental to employment while temporarily in Florida, that employee and his or her employer are exempt from Florida law if: (1) the employer has workers' compensation insurance coverage under its own state laws; (2) the extraterritorial provisions of Florida law are recognized in the employer's state and; (3) employers and employees covered in Florida are exempted from the workers' compensation laws of the other state.
- If an employee from another state is injured incidental to employment while temporarily in Florida, the exclusive remedy against the employer are the workers' compensation laws of the other state.
- A certificate from the appropriate office of another state is prima facie evidence that an employer carries workers' compensation coverage in the other state.
- For any litigation in Florida that involves a question of construction of laws in another state, the Florida court shall take judicial notice of the laws of the other state.
- When an employee has a claim under workers' compensation in another jurisdiction for the same injury or occupational disease as a claim filed in Florida, the total amount of

compensation derived from the other jurisdiction shall be credited against the compensation due under Florida Workers' Compensation Law.

- An employee is considered to be temporarily working in another state if the duration of that work does not exceed 10 consecutive days or 25 days during a calendar year.
- The provisions of s. 440.094, F.S., apply to any claim made on or after July 1, 2011, regardless of the date of the accident.

If approved by the Governor, these provisions take effect July 1, 2011.

Vote: Senate 39-0; House 117-0