

STORAGE NAME: h1187.in
DATE: March 30, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
ANALYSIS**

BILL #: HB 1187
RELATING TO: Workers' Compensation Joint Underwriting Plan
SPONSOR(S): Representative Goode
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) INSURANCE
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The Florida Workers' Compensation Joint Underwriting Association (FWCJUA) is the residual market for workers' compensation insurance. The FWCJUA provides insurance coverage to those employers who cannot find coverage in the voluntary workers' compensation insurance market. Employers in the FWCJUA are typically higher risk employers -- i.e., very small employers and employers who have a high incidence of workplace injuries.

The FWCJUA is an entirely self-funded program. It does not assess workers' compensation insurers for its losses (like, for example, the Florida Residential Property and Casualty Joint Underwriting Association does). All of the money to pay the FWCJUA's claims and expenses comes from the premiums, surcharges, and assessments paid by the policyholders.

This bill would require up to \$1.5 million of the FWCJUA's fixed expenses be paid from the Workers' Compensation Administration Trust Fund if the FWCJUA's gross written premiums drop below \$30 million for the preceding calendar year. For calendar year 1999, the FWCJUA's gross written premiums were \$6.4 million.

The bill would also permit the FWCJUA to eliminate deficits through the use of policyholder surplus attributable to any year.

This bill could have an annual fiscal impact on the Workers' Compensation Administration Trust Fund of an indeterminate amount not to exceed \$1.5 million. See Fiscal Comments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Currently, all of the costs of the FWCJUA are the sole responsibility of the employers who are actually in the FWCJUA. The bill would shift responsibility for funding the fixed expenses of the FWCJUA to all employers.

B. PRESENT SITUATION:

Florida Workers' Compensation Joint Underwriting Association

The Florida Workers' Compensation Joint Underwriting Association (FWCJUA) is the residual market for workers' compensation insurance. The FWCJUA provides insurance coverage to those employers who cannot find coverage in the voluntary workers' compensation insurance market. Employers in the FWCJUA are typically higher risk employers -- i.e., very small employers and employers who have a high incidence of workplace injuries.

The FWCJUA provides workers' compensation insurance for employers in three distinct subplans -- subplans A, B, and C.

- Subplan A is designed to provide coverage for small employers -- those with less than \$2,500 in premium. Policies issued under Subplan A are not assessable,¹ but they are subject to a flat surcharge of \$475.
- Subplan B is designed to provide coverage to employers who are high risk by the nature of their business and who have a lower than average number of claims (i.e., an experience modification factor of less than 1.00). Policies issued under Subplan B are also not assessable, but they are subject to the \$475 surcharge and an additional surcharge equal to 13% of the premium above \$2,500.
- All other employers in the FWCJUA fall into subplan C and can be issued assessable policies, which can be funded by increased premiums upon renewal, direct assessments, or both. These policies are also subject to the \$475 surcharge and an additional surcharge equal to 99% of the premium above \$2,500.

¹ An assessable FWCJUA policy is one in which the policyholder may be required to contribute on a pro-rata basis the money needed to meet any assessment levied by the FWCJUA.

The FWCJUA is an entirely self-funded program. It does not assess workers' compensation insurers for its losses (like, for example, the Florida Residential Property and Casualty Joint Underwriting Association does). All money to pay the FWCJUA's claims and expenses comes from premiums, surcharges, and assessments paid by policyholders.

Premiums Written by the FWCJUA

The total premium written by the FWCJUA has declined every year since its inception in 1993. Premiums written by year are as follows:

CALENDAR YEAR	GROSS WRITTEN PREMIUMS
1993	\$328,159,749
1994	\$73,305,743
1995	\$69,102,344
1996	\$27,748,666
1997	\$13,862,990
1998	\$14,182,389 ²
1999	\$6,431,378

Premium Breakdown

Out of every premium dollar³ written by the FWCJUA, a portion goes to paying each of the following: claims (or losses); loss adjustment expenses; variable expenses; and fixed expenses. For 1995, 1997, and 1999, the breakdown was as follows:⁴

	<u>1995</u>	<u>1997</u>	<u>1999</u>
<i>Claims</i>	37.8%	58.5%	62.5%
<i>Loss Adjustment Expenses</i> - adjusters salaries, attorney's expenses	7.4%	8.7%	3.3%
<i>Variable Expenses</i> - reinsurance costs, producer's commissions, service provider fees, collection expenses, taxes and assessments, and bad debt write-off	29.7%	53.9%	105%
<i>Fixed Expenses</i> - rent, utilities, printing costs, postage, personnel, and office equipment	2.2%	7.4%	19.8%

² According to the FWCJUA, the premium figure for 1998 includes an additional \$5.8 million in premiums that it discovered should have been paid by employers in previous years, but were not due to fraud.

³ For purposes of this breakdown, premium dollars also include the dollars collected from employers in the form of surcharges and assessments.

⁴ If the premium breakdown total is less than 100%, then the FWCJUA will have a surplus. If the premium breakdown total is greater than 100%, then the FWCJUA will have a deficit (which it must eliminate within a reasonable amount of time through increased premiums in subsequent years or through assessments).

The fixed expenses of the FWCJUA were \$1.17 million in 1998 and \$1.23 million in 1999. The largest component of the FWCJUA's fixed expenses was personnel -- i.e., employees' salaries, benefits, incentives, and payroll taxes -- which totalled \$634,886 in 1998 and \$693,505 in 1999.⁵

The Workers' Compensation Administration Trust Fund

The sole source of funding for the administration of the workers' compensation system is the Workers' Compensation Administration Trust Fund. Money for the trust fund is raised through annual assessments on self-insured employers and insurers (on behalf of insured employers). Self-insured employers pay the assessments directly, while insured employers pay the assessments as a component of the insurance premiums they pay to their insurer.

The Workers' Compensation Administration Trust Fund assessment is levied as a percentage of the workers' compensation premium written by insurers or, in the case of self-insured employers, the premium they would have paid for workers' compensation coverage. The assessment rate has increased each of the last three fiscal years:

FY 1998	2.40%
FY 1999	2.75%
FY 2000	3.48%

By statute, the Workers' Compensation Administration Trust Fund assessment rate cannot exceed 4%.⁶

Insurance companies receive a dollar-for-dollar credit against the insurance premium tax equal to the amount of their assessments paid into the Workers' Compensation Administration Trust Fund.⁷ The insurance premium tax, equal to 1.75% of each insurer's gross premiums, is collected by the Department of Revenue and goes primarily into the General Revenue Fund.

C. EFFECT OF PROPOSED CHANGES:

Instead of being funded entirely by the employers covered by the FWCJUA, up to \$1.5 million of the fixed expenses of the FWCJUA would be spread among all employers in Florida if the FWCJUA's gross written premiums drop below \$30 million. The FWCJUA's gross written premiums for 1999 was \$6.4 million.

By July 1st of each year, the FWCJUA would notify the Division of Workers' Compensation of its gross written premiums for the previous calendar year. If it is below \$30 million, the Division would charge up to \$1.5 million of the FWCJUA's fixed expenses against the Workers' Compensation Administration Trust Fund.

The FWCJUA would also be allowed to eliminate deficits through the use of policyholder surplus attributable to any year.

⁵ Specific information on the FWCJUA's loss adjustment expenses and variable expenses is not included in the Present Situation because the changes proposed in this bill do not relate to these expenses.

⁶ Section 440.51(1)(b), F.S.

⁷ Section 624.509(6), F.S.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill could have a negative fiscal impact on the insurance premium tax revenues by increasing the tax credits received by insurers paying assessments into the Workers' Compensation Administration Trust Fund. See Fiscal Comments.

2. Expenditures:

The bill could have a negative recurring fiscal impact on the Workers' Compensation Administration Trust Fund of an indeterminate amount not to exceed \$1.5 million. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Since the bill could result in an increase in the expenses of the Workers' Compensation Administration Trust Fund, the bill could also result in an increase in the assessment rate. If there is an increase in the assessment rate, this would be reflected in the workers' compensation rates charged by insurers. As a result, all self-insured employers (through increased assessments) and insured employers (through increased rates charged by their insurers) could experience slightly higher costs.

However, as the premium written and the number of policyholders insured by the FWCJUA decreases, the proportionate share of the fixed expenses paid by FWCJUA policyholders increases. Theoretically, it is possible that the premium level and number of policyholders could drop to a point where it is impossible to collect from the existing policyholders the necessary expenses to operate the FWCJUA. Therefore, this bill's outside source of funding for fixed expenses could ensure that the FWCJUA can continue to operate even when the premium level is low.

D. FISCAL COMMENTS:

Assuming the amount of workers' compensation premiums remains constant, any increase in the expenses of the Workers' Compensation Administration Trust Fund would result in an increase in the assessment rate and, accordingly, an increase in the assessments paid by employers (including the State of Florida as an employer). Whether and how much the expenses of the Workers' Compensation Trust Fund would be increased by this bill is indeterminate for the following reasons.

First, it is not certain that the FWCJUA's premium level in any given year would be below \$30 million. Thus, it is not certain that any of the FWCJUA's fixed expenses would be paid from the Workers' Compensation Administration Trust Fund. Second, it also not known exactly what the FWCJUA's fixed expenses will be in the future.

Assuming, however, that the premium level is below \$30 million, the bill could result in an increase of up to \$1.5 million in the expenses paid from the Workers' Compensation Administration Trust Fund. Based on the formula used to derive the current assessment rate, an increase of \$1.5 million in expenses would result in an increase in the assessment rate of approximately 0.05 percentage points. In other words, the current assessment rate of 3.48% would increase to 3.53%.⁸

If the Workers' Compensation Administration Trust Fund assessment rate increases, causing insurers to pay higher assessments, insurers would also be entitled to larger credits against the insurance premium tax. The fiscal impact of the higher assessment payments on the insurance premium tax is indeterminate because of the mix of business written by different insurers.

Those insurers that write only workers' compensation insurance generally do not pay premium tax because the Workers' Compensation Administration Trust Fund assessment of 3.48% on workers' compensation premiums far exceeds the insurance premium tax of 1.75% on the gross premiums of all of the insurer's lines of insurance. But, for insurers that write multiple lines of insurance, the Workers' Compensation Administration Trust Fund tax credit may not entirely eliminate the insurer's premium tax liability. For those insurers, any increase in Workers' Compensation Administration Trust Fund assessments would result in larger premium tax credits and lower premium tax revenues.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

⁸ According to the Division of Workers' Compensation's rate order of November 15, 1999, the current assessment rate of 3.48% was derived by dividing \$96,638,358 (expenses) by \$2.778 billion (premium base). By increasing the expenses \$1.5 million, the calculation changes as follows: \$98,138,358 (expenses) divided by \$2.778 (premium base) equals an assessment rate of 3.53%.

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Based on data provided by the FWCJUA, the FWCJUA's gross written premiums have been below \$30 million since 1996.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:

Staff Director:

Robert E. Wolfe, Jr.

Stephen Hogge