

HOUSE MESSAGE SUMMARY

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BILL: CS/SB 1926, 1st Eng.
SPONSOR: Banking and Insurance Committee and Senators Atwater and Lynn
SUBJECT: Workers' Compensation
PREPARED BY: Senate Committee on Banking and Insurance
DATE: April 29, 2004

I. Amendments Contained in Message:

House Amendment 1 - 968961 (body)

II. Summary of Amendments Contained in Message:

House Amendment 1 Currently, workers' compensation insurers that are members of a rating organization are required to adhere to the rate filing made on their behalf, but an insurer may apply to the Office of Insurance Regulation (OIR) for a uniform percentage decrease or increase, known as a rate "deviation." This amendment would allow a workers' compensation insurer to apply a rate deviation approved by the OIR "to a particular insured," meaning some employers, but not to all employers, based on underwriting guidelines filed with and approved by the OIR. This amendment would be particularly advantageous to an insurer that is not part of an insurer group since insurer groups are currently allowed to do this by having an approved deviation for one company but not in another company within the same insurer group. The amendment would also allow an insurer that is part of an insurer group to apply a deviation to some employers and not to other employers, based on approved underwriting guidelines. For example, those employers that have lower claims experience (or experience modification factor) than other employers in the same risk or job classification could qualify for a deviation.

Currently, s. 627.211(2), F.S., allows a rating deviation to vary according to factors present in each insurer's individual risk, subject to the insurer filing the qualifications for the plans, schedules of rating factors, and the maximum deviation factors, subject to the approval of OIR. This appears to be similar to the provisions of House Amendment 1, but the provision of current law has been traditionally interpreted as allowing an insurer to apply a credit for a specific rating factor if it can actuarially justify each individual factor that it proposes to use, commonly referred to as "schedule rating," which the OIR has not traditionally approved. In comparison, House Amendment 1 allows an insurer to have a rate deviation applied or not, based on meeting the eligibility criteria under approved underwriting guidelines. The amendment requires that the approval by OIR of the underwriting guidelines must be based on ss. 627.062, and 627.072, F.S., which provide standards for approval of rates for property and casualty insurance, and workers' compensation insurance, respectively. The standards of s. 627.062(2)(e)6., F.S., include, among others, that a rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.