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SFA BILL ANALYSIS

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Senate Bill 718 (as enrolled) **PUBLIC ACT 25 of 2002**
Sponsor: Senator Bill Bullard, Jr.
Senate Committee: Financial Services
House Committee: Insurance and Financial Services

Date Completed: 6-10-02

RATIONALE

Public Act 317 of 1969 created two State-wide workers' disability funds, the Second Injury Fund and the Silicosis, Dust Disease, and Logging Industry Compensation Fund. These Funds allow insurance carriers and self-insured employers to offer workers' compensation insurance to high-risk employees (persons with disabilities and those whose work environments carry inherent health risks, respectively) by spreading the cost of insuring those employees proportionateley among insurers. All self-insurers and insurance carriers are required to pay into the Funds. Until recently, the calculation of a carrier's assessment was based on the total amount of workers' compensation claims the carrier had paid the previous year, proportionate to the amount paid by all carriers in the State.

Since December 1998, companies that write workers' compensation benefits have had to comply with a national reporting mandate (AICPA Statement of Position 97-3) requiring each self-insurer and insurance company to determine the amount of their expected future obligations to workers' compensation funds, and to post these amounts on their quarterly financial statements. Evidently, the method used to calculate companies' payments into these Funds made compliance with this reporting requirement costly and burdensome.

CONTENT

The bill amended the Worker's Disability Compensation Act to revise the formula for determining the allocation of assessments against carriers (including self-insurers) for the Second Injury Fund and the Silicosis, Dust Disease, and Logging Industry Compensation Fund. The bill took effect March 6, 2002.

Previously, the Director of the Bureau of Worker's Disability Compensation collected from each carrier 175% of the total disbursements made from the Second Injury Fund and the Silicosis, Dust Disease, and Logging Industry Compensation Fund the preceding calendar year, less the amount of net assets in excess of $200,000 in each Fund as of December 31 of the preceding calendar year. The assessment for these funds had to bear the same relationship that the total amount of compensation benefits paid by each carrier in the State--exclusive of payments made for medical care, medical rehabilitation, and burials--bore to the total compensation benefits paid by all carriers in the State. The bill retained the assessment based on 175% of disbursements in the preceding year, deleted the "same relationship" clause, and established different formulas for the allocation of liability to all self-insurers and carriers, and the collection of funds from each carrier and self-insurer. The new formulas, shown in Table 1, calculate the portion allocated between all self-insurers and all insurers, and the amount collected from each self-insurer and each insurer. (In the table, "total paid losses" and "total direct premiums" refer to amounts paid or reported during or for the preceding calendar year).

Table 1

	Self-Insurers	Insurers
Allocation	total paid losses of all self-insurers / total paid losses of all carriers	total paid losses of all insurers / total paid losses of all carriers
Collection	total paid losses of *each* self-insurer / total paid losses of *all* self-insurers	total direct premiums written as reported by *each* insurance carrier / total direct premiums written as reported by *all* insurers

The bill defines "direct premiums written" as standard written Michigan workers' compensation premium prior to the application of deductible credits, as reported to the designated advisory organization, through policy declarations and unit statistical reports compiled under the authority of Section 2407 of the Insurance Code (which governs data collecting and reporting for workers' compensation benefits). For the purposes of determining assessments under the bill, the reported data for the most recent full calendar year on file with the designated advisory organization must be used. "Total paid losses" means total compensation benefits paid under the Act, exclusive of payments made for medical care, medical and vocational rehabilitation, and burial expenses.

In addition, the bill deleted a provision requiring the Director to collect from each private self-insurer an amount based on the total compensation the self-insurer paid in the preceding year, excluding payments made to cover medical care, medical and vocational rehabilitation, and burial expenses. Upon the advice of the Fund trustee representing self-insurers, the Director may continue to collect an amount necessary to keep the Self-Insurers' Security Fund solvent. The Act does not allow the assessment to exceed 3% in any calendar year, excluding payments made for medical care, medical and vocational care, and burial expenses. The bill retained this provision.

Previously, an employer that ceased to be a self-insurer, or an insurance company that ceased to write workers' compensation insurance, remained liable for the Second Injury Fund, the Silicosis, Dust Disease, and Logging Industry Compensation Fund, and the Self-Insurers' Security Fund assessment. The bill removed insurance companies from this liability.

MCL 418.551

BACKGROUND

The American Institute for Certified Public Accountants (AICPA) issued Statement of Position (SOP) 97-3, "Accounting by Insurance and Other Enterprises for Insurance-Related Assessments", for fiscal years beginning after December 15, 1998.

According to an on-line publication of the AICPA, *The CPA Letter* (February/March 1998), SOP 97-3 "...provides guidance on accounting by insurance and other enterprises for assessments related to insurance activities. The SOP also provides guidance for determining when an entity should recognize a liability for guaranty-fund and other insurance-related assessments; guidance on how to measure the liability...; and requirements for disclosure of certain information."

The SOP applies to all statutory assessments that use claim costs ("losses") or premiums as the assessment base, according to the UWC Workers' Compensation SOP 97-3 Project.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The national reporting mandate requiring self-insurers and insurers to predict the amount of their expected workers' compensation obligations, and report the amount in quarterly financial statements, had a negative impact on insurance companies' ability to

write new business, because it forced a company to set aside substantial reserves to cover this liability. By basing assessments to individual carriers on premiums written, instead of benefits paid, the bill enables insurance companies to satisfy the national requirement without posting substantial sums of money to cover lifetime potential liability on their financial statements.

Opposing Argument

The bill punishes insurance companies that have good loss ratios, because their required payment into the Funds is based on the average of all companies' premiums, including those with poor loss ratios. Thus, the new system will reward companies that do a poor job handling claims, and punish those that are exceptional.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Maria Tyszkiewicz

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