



Legislative Activity Report

National Council on Compensation Insurance

The nation's most experienced provider of workers compensation information, tools, and services

Regulatory Services

July 10, 2015

RLA-2015-27

Report Contact: Legislative_Activity@ncci.com

State Issues Contacts: Please refer to the list of State Relations Executives at the end of this report.

LEGISLATIVE ACTIVITY—LEGISLATIVE SESSION UPDATES

This report contains descriptions and/or excerpts of relevant bills that have passed the first chamber, passed the second chamber, or have been enacted during the specific periods. In addition, a recap of significant legislative and judicial activity impacting the workers compensation system will be included in the first report published each month. This report is issued on a weekly basis throughout the legislative season, and it provides updates on the content of these bills if and when they progress through the legislative process. This report includes bills from states where NCCI provides ratemaking services (see state list under Contact Information) and the US Congress.

BILLS ENACTED

Connecticut

HB 6868 was:

- Passed by the first chamber on May 12, 2015
- Included in NCCI's May 22, 2015 *Legislative Activity Report* (RLA-2015-20)
- Passed by the second chamber on June 2, 2015
- Included in NCCI's June 12, 2015 *Legislative Activity Report* (RLA-2015-23)
- Enacted on July 2, 2015, with an effective date of October 1, 2015

HB 6868, in part, amends various sections of the Connecticut General Statutes governing the Connecticut Insurance Guaranty Association (CIGA) to:

- Expand the claims CIGA must cover to include claims from policies that an insurer, who subsequently becomes insolvent, acquired through a merger or acquisition. Covered claims are those that the insurer assumed as a direct obligation by one of the following:
 - By acquiring another insurer's assets and assuming its liabilities
 - Through an assumption reinsurance transaction (i.e., where one insurer assumes liability for another insurer's obligations)
- Specify that the residence of claimants or insureds other than individuals (e.g., businesses) is the state where their principal place of business is located at the time of the insured event
- Change the point at which CIGA payments are triggered from a determination of insolvency to a final order of liquidation
- Specify that CIGA is not responsible for:
 - Claims arising from policies originally issued by a surplus lines carrier or risk retention group (i.e., a type of captive insurer or self-insured group organized under state and federal laws)
 - Obligations assumed by an insolvent insurer after a delinquency proceeding starts, unless the claim would have been covered regardless of the insolvent insurer assuming it
 - Obligations assumed by an insolvent insurer in a transaction in which the original insurer remains separately liable

HB 7000 was:

- Passed by the first chamber on May 19, 2015
- Included in NCCI's May 29, 2015 *Legislative Activity Report* (RLA-2015-21)
- Passed by the second chamber on June 2, 2015
- Included in NCCI's June 12, 2015 *Legislative Activity Report* (RLA-2015-23)
- Enacted on July 2, 2015, with an effective date of July 1, 2015

HB 7000 amends various sections of the Connecticut General Statutes including, but not limited to, the following:

Sec. 31-284a. State contracting with private insurance carrier. Duties and powers of Commissioner of Administrative Services.

...

(b) The Commissioner of Administrative Services may exclude from participation in the state workers' compensation managed care program any medical provider found, through a systematic program of utilization review, to exceed generally accepted standards of the scope, duration or intensity of services rendered to patients with similar diagnostic characteristics. ~~The state shall not make any payment to a facility owned in whole or in part by the referring practitioner.~~

...

Hawaii

HB 1268 HD 2 SD 2 CD 1 was:

- Passed by the first chamber on March 10, 2015
- Included in NCCI's March 20, 2015 *Legislative Activity Report* (RLA-2015-11)
- Amended and passed by the second chamber on April 14, 2015
- Included in NCCI's April 24, 2015 *Legislative Activity Report* (RLA-2015-16)
- Enacted on June 26, 2015, with an effective date of July 1, 2015

HB 1268 HD 2 SD 2 CD 1, in part, amends *section 386-25. Vocational rehabilitation* of the Hawaii Revised Statutes as follows:

§ 386-25. Vocational rehabilitation.

(a) The purposes of vocational rehabilitation are to restore an injured worker's earnings capacity as nearly as possible to that level that the worker was earning at the time of injury and to return the injured worker to suitable gainful employment in the active labor force as quickly as possible in a cost-effective manner. Vocational rehabilitation shall not be available for public employees who have retired from a public employer, as defined in section 76-11, with whom they sustained their work injury. Employees of public employers, as defined in section 76-11, who are eligible for their respective public employer's return to work program, shall participate in and complete the return to work program, including temporary light duty placement efforts, as a prerequisite to vocational rehabilitation benefits under this section.

...

In addition, **HB 1268 HD 2 SD 2** includes the following clause:

This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

Louisiana

HB 256 was:

- Passed by the first chamber on May 4, 2015
- Included in NCCI's May 15, 2015 *Legislative Activity Report* (RLA-2015-19)
- Amended and passed by the second chamber on May 27, 2015
- Included in NCCI's June 5, 2015 *Legislative Activity Report* (RLA-2015-22)
- Enacted on June 29, 2015, with an effective date of August 1, 2015

HB 256 amends *sections 1342. Definitions; terms defined, 1343. Authority of governmental subdivisions to form, join, and participate in interlocal risk management agency; employer contributions toward premiums; ownership of record, and 1344. Governance of interlocal risk management agencies* of *Title 33* of the Louisiana Revised Statutes as follows:

§ 1342. Definitions; terms defined

The following words and terms shall have the meaning indicated unless the context shall clearly indicate a different meaning.

(1) "Local governmental subdivision" means any parish or municipality, other governing or administrative body created under the charter of, or by the governing body of, such parish or municipality to serve a public purpose, or other local governing or administrative body created by or pursuant to law or the Constitution of Louisiana to serve a public purpose. For purposes of this Subpart only, this term also means the offices of the various clerks of court and district public defender offices established in accordance with R.S. 15:141 et seq., ~~and~~ the members of a trust established by a statewide hospital association for the purposes of providing employers' liability or workers' compensation coverage for its members, provided the majority of the members of such trust consists of governmental subdivisions, and any city, parish, or other local public school system.

...

§ 1343. Authority of governmental subdivisions to form, join, and participate in interlocal risk management agency; employer contributions toward premiums; ownership of record

...
B. Each group self insurance fund shall be separate as to risk, and maintained as a separate pool, but one or more of the funds may be administered by a single interlocal risk management agency. Local governmental subdivisions concluding an agreement under the provisions hereof may by resolution duly adopted by the governing body thereof designate the Louisiana Municipal Association for the municipalities, ~~and~~ the Police Jury Association of Louisiana for the parishes, and the Louisiana School Board Association for the local public school systems to administer the interlocal risk management agency and any group self insurance fund established by said agency, and to further administer the terms and conditions of the intergovernmental agreement by which the agency and the

group self insurance fund has been created.

...

F. In addition to local governmental subdivisions, statewide organizations composed of local governmental subdivisions and their wholly owned subsidiaries may become members of an interlocal risk management agency for purposes of providing accident and health protection to their employees and for purposes of providing coverage for those risks defined in R.S. 22:47(3), (6), ~~(7)~~, and (10), and public liability and worker's compensation coverage upon approval of the governing body of the association and the governing body of the interlocal risk management agency. For purposes of this Subsection, the Police Jury Association of Louisiana, ~~and the Louisiana Municipal Association, and the Louisiana School Board Association~~ shall be considered statewide organizations composed of local governmental subdivisions.

§ 1344. Governance of interlocal risk management agencies

~~In the event~~ If the Louisiana Municipal Association of Louisiana, ~~and/or~~ the Police Jury Association of Louisiana, ~~or the Louisiana School Board Association is~~ be designated to administer an interlocal risk management agency, the executive boards of the Louisiana Municipal Association and of the Police Jury Association of Louisiana, as the case may be, ~~and the board of directors of the Louisiana School Board Association~~ shall constitute the board of trustees of each such agency established as provided in ~~Section 1340(B)~~ R.S. 33:1343, and shall be authorized as such to adopt bylaws for the administration of their respective agencies.

HB 393 was:

- Passed by the first chamber on May 12, 2015
- Included in NCCI's May 22, 2015 *Legislative Activity Report* (RLA-2015-20)
- Amended and passed by the second chamber on June 4, 2015
- Included in NCCI's June 12, 2015 *Legislative Activity Report* (RLA-2015-23)
- Enacted on July 1, 2015, with an effective date of August 1, 2015

HB 393 amends *section 23:1196.1. Investments* of the Louisiana Revised Statutes, related to group self-insurance funds for workers compensation, as follows:

§ 23:1196.1. Investments

...

B. Amounts not needed for current obligations may be invested by the board of trustees as provided in this Section, and not otherwise, in any or all of the following:

...

(4) Obligations of the state of Louisiana or its subdivisions having a minimum rating of "A" by Moody's, Standard & Poor's, or Fitch. No more than five percent of the fund's assets may be invested in any one issue nor can this type of investment exceed fifteen percent of the fund's assets in the aggregate.

(5) Obligations of any state or its subdivisions having a minimum rating of "A" by Moody's, Standard & Poor's, or Fitch. No more than five percent of the fund's assets may be invested in any one issue nor can this type of investment exceed fifteen percent of the fund's assets in the aggregate.

(6) Commercial mortgage-backed securities with purchases having a minimum rating of Aaa by Moody's, AAA by Standard and Poor's, or AAA by Fitch. No more than two percent of the fund's assets may be invested in one issue, nor can this type of investment exceed ten percent of the fund's assets in the aggregate.

(7) Asset-backed securities with purchases having a minimum rating of Aa by Moody's, AA by Standard and Poor's, or AA by Fitch. No more than five percent of the fund's assets may be invested in one issue, nor can this type of investment exceed ten percent of the fund's assets in the aggregate.

(8) Repurchase agreements, without limitation, when the collateral for the agreement is a direct obligation of the United States government, provided that the repurchase agreement shall:

(a) Be in writing.

(b) Have a specific maturity date.

(c) Adequately identify each security to which the agreement applies.

(d) State that in the event of default by the party agreeing to repurchase the securities described in the agreement at the term contained in the agreement, title to the described securities shall pass immediately to the fund without recourse.

~~(6)~~ (9) Corporate bonds, subject to the following limitations:

(a) The bonds must have a minimum rating of "~~A~~" Baa by Moody's, BBB by Standard and Poor's, or BBB by Fitch.

(b) Except as provided in Subparagraph ~~(6)~~(d) (d) of this Paragraph, not more than five percent of a fund's assets may be invested in corporate bonds of any one issue or issuer.

(c) Except as provided in Subparagraph ~~(6)~~(d) (d) of this Paragraph, not more than fifty percent of a fund's assets may be invested in corporate bonds of all types.

(d) The five percent and fifty percent limitations specified in Subparagraphs ~~(6)~~(b) and ~~(6)~~(c) (b) and (c) of this Paragraph, respectively, may be exceeded up to an additional ten percent of a fund's assets in the event, and only in the event, of financial circumstances acceptable to the Department of Insurance, such as an increase in market value after initial purchase of a corporate bond, provided that:

~~(d)~~ (i) The initial purchase of corporate bonds was within the limitations specified in Subparagraphs ~~(6)~~(b) and ~~(6)~~(c); ~~and (b) and (c) of~~

this Paragraph.

(ii) For the purpose of determining the financial condition of a fund, the Louisiana Department of Insurance will not include as assets of a fund corporate bonds which exceed fifty percent of a fund's total assets.

(10) Mutual or trust fund institutions which are registered with the Securities and Exchange Commission under the Securities Act of 1933 and the Investment Company Act of 1940, and which have underlying investments consisting solely of and limited to securities approved for investment as set forth in this Subsection. This type of investment shall not exceed fifty percent of the fund's assets in the aggregate.

(11)(a) Equities subject to the following limitations:

(i) The equity sector shall not exceed fifteen percent of the overall investment fund.

(ii) A minimum of five different issues shall be held in the equity sector to provide for diversification.

(iii) No single issue may represent more than five percent, at cost, of the overall investment fund.

(iv) Market capitalization of each issue shall be at least one billion dollars.

(v) Each eligible issue shall be paying a cash dividend.

(vi) Equity holdings shall be restricted to high quality, readily marketable securities corporations that are domiciled in the United States and that are actively traded on the major United States exchanges including the New York Stock Exchange and the National Association of Securities Dealers Automated Quotation Stock Market, LLC (NASDAQ).

(b) Foreign domiciled corporations are eligible if they trade American Depositary Receipts on the major United States exchanges.

(c) In lieu of individual securities, a mutual fund or exchange traded fund which pays a dividend and consists of securities which have an average market capitalization of at least one billion dollars shall be acceptable. The same general quality constraints shall be met and the aggregate total of the funds, plus any individual securities, may not exceed fifteen percent of the overall investment fund.

...

SB 107 was:

- Passed by the first chamber on May 13, 2015
- Included in NCCI's May 22, 2015 *Legislative Activity Report* (RLA-2015-20)
- Passed by the second chamber on June 8, 2015
- Included in NCCI's June 19, 2015 *Legislative Activity Report* (RLA-2015-24)
- Enacted and effective on June 29, 2015

SB 107 amends *section 1378. Determination of liability of fund* of the Louisiana Revised Statutes relative to the Second Injury Fund. Present law provides a reimbursement schedule which, for second injuries occurring between July 1, 2010, and July 1, 2015, excludes the first 104 weeks of indemnity benefits and the first \$25,000 of medical benefits from reimbursement. **SB 107** eliminates the end date (July 1, 2015) contained in that section of the reimbursement schedule.

Maine

LD 1119 was:

- Passed by the first and second chambers on June 17, 2015
- Included in NCCI's June 26, 2015 *Legislative Activity Report* (RLA-2015-25)
- Vetoed by the governor on June 29, 2015
- Enacted on June 30, 2015, after veto overridden, with a projected effective date of October 14, 2015

LD 1119 makes various changes to the Maine Workers' Compensation Act of 1992 to:

- Provide that an employer may report wages of an employee to the Workers' Compensation Board in the same manner as the employee is paid and adds that an employer is not required to report lost time to the Workers' Compensation Board beyond 14 days for an injured employee who has returned to work and subsequently attended medical appointments if the employee did not lose wages for attending such appointments
- Require the Workers' Compensation Board to inform the Maine Insurance Guaranty Association of the association's responsibilities under the Maine Workers' Compensation Act of 1992 within 180 days
- Change the job title of hearing officer to administrative law judge, except for any hearing officer currently serving who is not admitted to the practice of law in Maine
- Require the Workers' Compensation Board to develop rules in regards to the timing and deadlines for independent medical examiner examinations and directs the Workers' Compensation Board to annually report data regarding these examinations to the Legislature

BILLS PASSING SECOND CHAMBER

The following bill passed the second chamber within the one-week period ending July 3, 2015.

North Carolina

HB 765 was:

- Passed by the first chamber on April 23, 2015
- Passed by the second chamber on July 2, 2015

HB 765, in part, amends *section 97-2 Definitions*. of the North Carolina General Statutes as follows:

§ 97-2. Definitions.

When used in this Article, unless the context otherwise requires:

...

(2) Employee. –

...

Every Except as otherwise provided herein, every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

...

“Employee” shall not include any person elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation subject to Chapter 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, who performs only voluntary service for the nonprofit corporation, provided that the person receives no remuneration for the voluntary service other than reasonable reimbursement for expenses incurred in connection with the voluntary service. When a nonprofit corporation as described herein employs one or more persons who do receive remuneration other than reasonable reimbursement for expenses, then any volunteer officers, directors, or committee members excluded from the definition of “employee” by operation of this paragraph shall be counted as employees for the sole purpose of determining the number of persons regularly employed in the same business or establishment pursuant to G.S. 97-2(1). Other than for the limited purpose of determining the number of persons regularly employed in the same business or establishment, such volunteer nonprofit officers, directors, or committee members shall not be “employees” under the Act. Nothing herein shall prohibit a nonprofit corporation as described herein from voluntarily electing to provide for workers’ compensation benefits in the manner provided in G.S. 97-93 for volunteer officers, directors, or committee members excluded from the definition of “employee” by operation of this paragraph. This paragraph shall not apply to any volunteer firefighter, volunteer member of an organized rescue squad, an authorized pickup firefighter when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, even if such person is elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation as described herein.

...

Note: The version of **HB 765** that was passed by the first chamber did not contain any relevant workers compensation-related language; therefore, it was not included in any previous version of NCCI’s *Legislative Activity Report*.

BILLS PASSING FIRST CHAMBER

There were no bills that passed the first chamber within the one-week period ending July 3, 2015.

Contact Information

If you have any questions about the legislation or proposals mentioned, please contact the appropriate NCCI state relations executive (listed below) or a representative of your local insurance trade association.

State	State Relations Executive	Phone Number
CT, ME, NH, RI ,VT	Laura Backus Hall	802-454-1800
FL, IA	Chris Bailey	850-322-4047
AL, GA, KY, LA, MS	Cathy Booth	205-655-2699
AZ, CO, NM, NV, UT	Maggie Karpuk	818-707-8374
DC, MD, VA, WV	David Benedict	804-380-3005
AK, HI	Carolyn Pearl	808-524-6239
IN, NC, SC, TN	Amy Quinn	803-356-0851
AR, IL, KS, TX	Terri Robinson	501-333-2835
ID, MT, OR	Mike Taylor	503-892-1858
MO, NE, OK, SD	Carla Townsend	314-843-4001
Federal Issues	Tim Tucker	202-403-8526

This report is informational and is not intended to provide an interpretation of state and federal legislation.