



Legislative Activity Report

National Council on Compensation Insurance

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Regulatory Services

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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 passed the first chamber, passed the second chamber, or were 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

The following workers compensation-related bills were enacted within the one-week period ending March 25, 2016.

Indiana

HB 1136 was:

- Passed by the first chamber on January 28, 2016
- Included in NCCI's February 5, 2016 *Legislative Activity Report* (RLA-2016-04)
- Amended and passed by the second chamber on March 1, 2016
- Included in NCCI's March 11, 2016 *Legislative Activity Report* (RLA-2016-09)
- Amended by Conference Committee, and amendments adopted by the House and Senate on March 9, 2016
- Enacted on March 21, 2016, with an effective date of July 1, 2016, for the amendments to *section 27-9-1-2. Definitions*, and for new *section 27-9-3-34.5* of the Indiana Code

HB 1136, in part, amends *section 27-9-1-2. Definitions*, and adds *section 27-9-3-34.5* to the Indiana Code relating to large deductible workers compensation policies, as follows:

27-9-1-2. Definitions

...
(b) "Collateral", for purposes of IC 27-9-3-34.5, means cash, a letter of credit, a surety bond, or another form of security posted by an insured, a captive insurer, or reinsurer, to secure the insured's obligation to:

- (1) pay deductible claims or to reimburse the insurer for deductible claim payments under a large deductible policy; or
- (2) reimburse or pay the insurer as required for other secured obligations.

(c) "Commercially reasonable" means:

- (1) acting in good faith according to prevailing industry practices; and
- (2) making all reasonable efforts considering the facts and circumstances of a matter.

...
(f) "Deductible claim" means a claim under a large deductible policy that does not exceed the deductible. The term includes a claim for loss, defense, and (unless excluded) cost containment expense.

...
(q) "Large deductible policy" means a combination of worker's compensation policies or endorsements, or both, issued to an insured and contracts or security agreements entered into between the insured and insurer in which the insured has agreed to pay directly, or reimburse the insurer for the insurer's payment of, the:

- (1) initial part of a claim under the policy; or
 - (2) expenses related to a claim;
- up to a specified dollar amount. The term includes a policy that contains, in addition to a per claim limit, an aggregate limit on the insured's liability for all deductible claims. The term also includes a policy with a deductible of at least fifty thousand dollars (\$50,000). The term does not include a policy, an endorsement, or an agreement under which the initial part of a claim is self-insured and the insurer is not obligated to pay any part of the self-insured retention. The term also does not include a policy that provides for

retrospectively rated premium payments or a reinsurance agreement, except to the extent that a reinsurance agreement assumes, secures, or pays the insured's large deductible obligations.

(r) "Other secured obligations", for purposes of IC 27-9-3-34.5, means obligations of an insured to an insurer other than obligations under a large deductible policy. The term includes obligations under a reinsurance agreement or another agreement that involves retrospective premium obligations the performance of which is secured by collateral that also secures an insured's obligations under a large deductible policy.

...

27-9-3-34.5

Sec. 34.5. (a) This section:

(1) applies to a worker's compensation large deductible policy issued by an insurer that is subject to this chapter; and

(2) does not apply to first party claims or claims funded by the guaranty association net of the deductible.

(b) To the extent that the terms of a large deductible policy conflict with this section, the policy must be administered in accordance with this section.

(c) Unless otherwise agreed by the guaranty association, all deductible claims that are covered claims (as defined in IC 27-6-8-4), including claims funded by an insured before liquidation, must be referred to the guaranty association for processing. To the extent an insured funds or pays a deductible claim under an agreement with the guaranty association or otherwise, the insured's funding or payment of the deductible claim extinguishes any obligation of the receiver or the guaranty association to pay the claim. A charge may not be made against the receiver or the guaranty association on the basis of an insured's funding or payment of a deductible claim.

(d) The following apply when the guaranty association pays a deductible claim:

(1) If the guaranty association pays a deductible claim for which the insurer would have been entitled to reimbursement from the insured, the guaranty association is entitled to the full amount of the reimbursement and available collateral to the extent necessary to reimburse the guaranty association. Reimbursements paid to the guaranty association under this subsection are not early access payments under section 32 of this chapter or distributions under section 40 of this chapter.

(2) If the guaranty association pays:

(A) a deductible claim that is not reimbursed:

(i) from collateral; or

(ii) by payment by the insured; or

(B) an incurred expense in connection with a large deductible policy that is not reimbursed;

the guaranty association is entitled to assert a claim for the payments in the delinquency proceeding.

(e) Subsection (d) does not limit the receiver's or guaranty association's rights under other applicable law to obtain reimbursement from an insured for claim payments made by the guaranty association:

(1) under the policies of the insurer; or

(2) for the guaranty association's related expenses;

including payments described in IC 27-6-8-11.5 or under another state's similar law.

(f) A receiver shall do the following:

(1) Upon receipt by the receiver of notice from the guaranty association of reimbursable payments for which the guaranty association has not been reimbursed, bill an insured for reimbursement of deductible claims:

(A) paid by the insurer before the commencement of delinquency proceedings;

(B) paid by the guaranty association; or

(C) paid or allowed by the receiver.

(2) If an insured that is billed under subdivision (1) does not make payment within:

(A) the time specified in the large deductible policy; or

(B) if no time is specified in the large deductible policy, sixty (60) days after the date of billing;

the receiver shall pursue all commercially reasonable actions to collect the payment.

(g) The following do not relieve an insured from the insured's reimbursement obligation under a large deductible policy and this chapter:

(1) An insurer's insolvency.

(2) An insurer's inability to perform the insurer's obligations.

(3) An allegation of improper processing or payment of a deductible claim, except for gross negligence, by the:

(A) insurer;

(B) receiver; or

(C) guaranty association.

(h) With respect to collateral, the following apply:

(1) A receiver shall use available collateral to secure:

(A) an insured's obligation to fund or reimburse deductible claims; and

(B) other secured obligations or payment obligations.

The guaranty association is entitled to collateral to the extent needed to reimburse the guaranty association for the guaranty association's payment of a deductible claim. A distribution to the guaranty association under this subdivision is not an early access payment under section 32 of this chapter or a distribution under section 40 of this chapter.

- (2) A receiver shall pay all claims against collateral in the order received, and a claim of the receiver, including claims described in this subsection, does not supersede any other claim against the collateral as described in subdivision (4).
- (3) A receiver shall draw down collateral to the extent necessary if the insured fails to do any of the following:
- (A) Perform the insured's funding or payment obligations under the large deductible policy.
- (B) Pay a deductible claim reimbursement within the time specified in subsection (f)(2).
- (C) Pay amounts due to the insurer estate for pre-liquidation obligations.
- (D) Fund any other secured obligation within:
- (i) the time specified in the large deductible policy; or
- (ii) another reasonable period.
- (E) Pay expenses within the time specified in subsection (f)(2).
- (4) A receiver shall pay all claims that are validly asserted against the collateral in the order in which the claims are received by the receiver.
- (5) A receiver shall return to an insured any excess collateral, as determined by the receiver after a periodic review of claims paid, outstanding case reserves, and a factor for incurred but not reported claims.

SB 20 was:

- Passed by the first chamber on January 19, 2016
- Amended and passed by the second chamber on February 22, 2016
- Included in NCCI's March 4, 2016 *Legislative Activity Report* (RLA-2016-08)
- Amended by Conference Committee, and amendments adopted by the House and Senate on March 10, 2016
- Enacted on March 23, 2016, with an effective date for the language below of July 1, 2016

SB 20, in part, includes the following language:

- (a) As used in this Section, "legislative council" refers to the legislative council established by IC 2-5-1.1-1.
- (b) The legislative council is urged to assign to the interim study committee on employment and labor established by IC 2-5-1.3-4 or another appropriate interim study committee during the 2016 legislative interim the topics of:
- (1) employee misclassification;
- (2) payroll fraud; and
- (3) the use of independent contractor status.
- (c) If the topics described in subsection (b) are assigned to an interim study committee, the interim study committee shall issue a final report to the legislative council containing the interim study committee's findings and recommendations, including any recommended legislation, in an electronic format under IC 5-14-6 not later than November 1, 2016.
- (d) This Section expires December 31, 2016.

Utah

HB 96 was:

- Passed by the first chamber on February 18, 2016
- Included in NCCI's February 26, 2016 *Legislative Activity Report* (RLA-2016-07)
- Passed by the second chamber on March 9, 2016
- Included in NCCI's March 18, 2016 *Legislative Activity Report* (RLA-2016-10)
- Enacted on March 23, 2016, with an effective date of May 9, 2016

HB 96 creates new *Chapter 3* in *Title 63F* of the Utah Code Annotated to read:

Chapter 3. Single Sign-On Database

63F-3-101. Title.

This chapter is known as "Single Sign-On Database."

63F-3-102. Definitions.

As used in this chapter:

- (1) "Business data" means data collected by the state about a person doing business in the state.
- (2) "Business database" means the database described in Subsection 63F-3-103(1).
- (3) "Database" means an electronic means of storing information.
- (4) "Single sign-on web portal" means the web portal described in Subsection 63F-3-103(2).
- (5) "Web portal" means an Internet webpage that can be accessed by an individual where the individual enters the individual's unique user information in order to access secure information.

63F-3-103. Single sign-on database—Creation.

- (1) The department shall, in consultation with the entities described in Subsection (4), design and create a prototype of a single database, and associated data entry screens, that stores business data agreed upon by the entities described in Subsection (4) that is:
- (a) secure;
- (b) centralized; and
- (c) interconnected.

(2) The department shall create a web portal that allows a person doing business in the state to access, at a single point of entry, all relevant state-collected business data about the person, including information related to:

(a) business registration;

(b) workers' compensation;

(c) tax liability and payment; and

(d) other information collected by the state that the department determines is relevant to a person doing business in the state.

(3) The department shall develop the business database and the single sign-on web portal:

(a) using an open platform that:

(i) facilitates participation in the database and web portal by a state entity; and

(ii) allows for optional participation by a political subdivision of the state; and

(b) in a manner that anticipates expanding the database and web portal to include:

(i) a database for data collected by the state on an individual; and

(ii) a web portal for an individual to access all relevant data collected by the state on the individual.

(4) In developing the business database and the single sign-on web portal, the department shall consult with:

(a) the Department of Commerce;

(b) the State Tax Commission;

(c) the Labor Commission;

(d) the Department of Workforce Services;

(e) the Governor's Office of Management and Budget;

(f) the Utah League of Cities and Towns;

(g) the Utah Association of Counties; and

(h) the business community that is likely to use the business database and single sign-on web portal.

63F-3-104. Report.

The department shall report to the Public Utilities and Technology Interim Committee:

(1) no later than November 30, 2016, with an initial design and prototype of the business database and the single sign-on web portal, together with a minimum two-year plan, including projected cost, for the initial implementation phase of the project; and

(2) before November 30 of each year beginning in 2017 until the development of the business database and the single sign-on web portal is complete, regarding the progress the department has made in developing the business database and the single sign-on web portal.

SB 127 was:

- Passed by the first chamber on February 11, 2016
- Included in NCCI's February 19, 2016 *Legislative Activity Report* (RLA-2016-06)
- Passed by the second chamber on February 19, 2016
- Included in NCCI's February 26, 2016 *Legislative Activity Report* (RLA-2016-07)
- Enacted on March 23, 2016, with an effective date of May 9, 2016

SB 127 amends *sections 34A-2-416. Additional benefits in special cases* and *34A-2-703. Payments from Employers' Reinsurance Fund.* of the Utah Code Annotated as follows:

34A-2-416. Additional benefits in special cases

~~(1)~~ Benefits received by a wholly dependent person under this chapter or Chapter 3, Utah Occupational Disease Act, extend indefinitely if at the termination of the benefits:

~~(a)~~ ~~(1)~~ the wholly dependent person is still in a dependent condition; and

~~(b)~~ ~~(2)~~ under all reasonable circumstances the wholly dependent person should be entitled to additional benefits.

~~(2) If benefits are extended under Subsection (1):~~

~~(a) the liability of the employer or insurance carrier involved may not be extended; and~~

~~(b) the additional benefits allowed shall be paid out of the Employers' Reinsurance Fund created in Subsection 34A-2-702(1).~~

34A-2-703. Payments from Employers' Reinsurance Fund.

If an employee, who has at least a 10% whole person permanent impairment from any cause or origin, subsequently incurs an additional impairment by an accident arising out of and in the course of the employee's employment during the period of July 1, 1988, to June 30, 1994, inclusive, and if the additional impairment results in permanent total disability, the employer or its insurance carrier and the Employers' Reinsurance Fund are liable for the payment of benefits as follows:

....

(4) If it is determined that the employee is permanently and totally disabled, the employer or its insurance carrier shall be given credit for all prior payments of temporary total, temporary partial, and permanent partial disability compensation made as a result of the industrial accident. ~~Any~~ An overpayment by the employer or its insurance carrier shall be reimbursed by the Employers' Reinsurance Fund under Subsection (5).

(5) (a) (i) Upon receipt of a duly verified petition, the Employers' Reinsurance Fund shall reimburse the employer or its insurance carrier for the Employers' Reinsurance Fund's share of medical benefits and compensation paid to or on behalf of an employee.

(ii) A request for Employers' Reinsurance Fund reimbursements shall be accompanied by satisfactory evidence of payment of the

medical or disability compensation for which the reimbursement is requested. ~~Each~~

(iii) A request is subject to review as to reasonableness by the administrator. The administrator may determine the manner of reimbursement.

(b) A decision of the administrator under Subsection (5)(a) may be appealed in accordance with Part 8, Adjudication.

(c) An employer or its insurance carrier shall submit to the Employers' Reinsurance Fund, by June 30, 2018, a request for reimbursement related to medical benefits or compensation paid on or before July 1, 2016.

(d) An employer or its insurance carrier shall submit to the Employers' Reinsurance Fund a request for reimbursement related to medical benefits or compensation paid after July 1, 2016, within 24 months of the later of:

(i) the date the benefits or compensation are paid by the employer or its insurance carrier; or

(ii) the date the Employers' Reinsurance Fund is determined to be liable.

(e) Requests for reimbursement not submitted in accordance with Subsection (5)(c) or (5)(d) are considered untimely and the Employers' Reinsurance Fund may not reimburse the benefits or compensation paid.

...

SB 216 was:

- Passed by the first chamber on March 2, 2016
- Included in NCCI's March 11, 2016 *Legislative Activity Report* (RLA-2016-09)
- Amended and passed by the second chamber on March 10, 2016
- Included in NCCI's March 18, 2016 *Legislative Activity Report* (RLA-2016-10)
- Enacted on March 23, 2016, with an effective date of May 9, 2016

SB 216 amends the workers' compensation and occupational disease acts in the Utah Code Annotated, relating to reimbursement of hospitals, in part, as follows:

34A-2-107. Appointment of workers' compensation advisory council—Composition—Terms of members—Duties—Compensation.

...

(7) The council shall study how hospital costs may be reduced for purposes of medical benefits for workers' compensation. The council shall report to the Business and Labor Interim Committee the council's recommendations by no later than November 30, 2017.

...

34A-2-407. Reporting of industrial injuries—Regulation of health care providers.

...

(11) (a) As used in this Subsection (11):

(i) "Balance billing" means charging a person, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act, for the difference between what the workers' compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.

(ii) "Covered medical services" means medical services provided by a hospital that are covered by workers' compensation medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act.

(iii) "Health benefit plan" means the same as that term is defined in Section 31A-22-619.6.

(iv) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.

(b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.

(c) Subject to Subsection (11)(d) for the time period beginning on May 10, 2016, and ending on July 1, 2018, a workers' compensation insurance carrier or self-insured employer that is reimbursing a hospital that has not entered into a contract described in Subsection (11)(b) shall reimburse the hospital for covered medical services at 85% of the billed hospital fees for the covered medical services.

(d) A hospital may not engage in balance billing.

(e) Covered services paid under a health benefit plan are subject to coordination of benefits in accordance with Sections 31A-22-619.6 and 34A-2-213.

~~(12)~~ (12) (a) Subject to appellate review under Section 34A-1-303, the commission has exclusive jurisdiction to hear and determine:

(i) whether goods provided to or services rendered to an employee are compensable pursuant to this chapter or Chapter 3, Utah Occupational Disease Act, including:

(A) medical, nurse, or hospital services;

(B) medicines; and

(C) artificial means, appliances, or prosthesis;

(ii) except for amounts charged or paid under Subsection (11), the reasonableness of the amounts charged or paid for a good or service described in Subsection ~~(12)~~ (12)(a)(i); and

(iii) collection issues related to a good or service described in Subsection ~~(12)~~ (12)(a)(i).

(b) Except as provided in Subsection ~~(12)~~ (12)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment for goods or services described in

Subsection ~~(44)~~ (12)(a) that are compensable under this chapter or Chapter 3, Utah Occupational Disease Act.

34A-2-418. Awards—Medical, nursing, hospital, and burial expenses—Artificial means and appliances.

(1) In addition to the compensation provided in this chapter or Chapter 3, Utah Occupational Disease Act, and subject to Subsection 34A-2-407(11), the employer or the insurance carrier shall pay reasonable sums for medical, nurse, and hospital services, for medicines, and for artificial means, appliances, and prostheses necessary to treat the injured employee.

...

34A-2-801. Initiating adjudicative proceedings—Procedure for review of administrative action.

...

(c) A person providing goods or services described in Subsections 34A-2-407~~(44)~~ (12) and 34A-3-108~~(42)~~ (13) may file an application for hearing in accordance with Section 34A-2-407 or 34A-3-108.

...

34A-3-108. Reporting of occupational diseases—Regulation of health care providers.

...

(11) (a) As used in this Subsection (11):

(i) “Balance billing” means charging a person, on whose behalf a workers’ compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 2, Workers’ Compensation Act, for the difference between what the workers’ compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.

(ii) “Covered medical services” means medical services provided by a hospital that are covered by workers’ compensation medical benefits under this chapter or Chapter 2, Workers’ Compensation Act.

(iii) “Health benefit plan” means the same as that term is defined in Section 31A-22-619.6.

(iv) “Self-insured employer” means the same as that term is defined in Section 34A-2-201.5.

(b) Subject to Subsection (11)(d), a workers’ compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.

(c) Subject to Subsection (11)(d), for the time period beginning on May 10, 2016, and ending on July 1, 2018, a workers’ compensation insurance carrier or self-insured employer that is reimbursing a hospital that has not entered into a contract described in Subsection (11)(b), shall reimburse the hospital for covered medical services at 85% of the billed hospital fees for the covered medical services.

(d) A hospital may not engage in balance billing.

(e) Covered services paid under a health benefit plan are subject to coordination of benefits in accordance with Sections 31A-22-619.6 and 34A-2-213.

~~(44)~~ (12) (a) An application for a hearing to resolve a dispute regarding an occupational disease claim shall be filed with the Division of Adjudication.

(b) After the filing, a copy shall be forwarded by mail to:

(i) (A) the employer; or

(B) the employer’s workers’ compensation insurance carrier;

(ii) the applicant; and

(iii) the attorneys for the parties.

~~(42)~~ (13) (a) Subject to appellate review under Section 34A-1-303, the commission has exclusive jurisdiction to hear and determine:

(i) whether goods provided to or services rendered to an employee is compensable pursuant to this chapter and Chapter 2, Workers’ Compensation Act, including the following:

(A) medical, nurse, or hospital services;

(B) medicines; and

(C) artificial means, appliances, or prosthesis;

(ii) except for amounts charged or paid under Subsection (11), the reasonableness of the amounts charged or paid for a good or service described in Subsection ~~(42)~~ (13)(a)(i); and

(iii) collection issues related to a good or service described in Subsection ~~(42)~~ (13)(a)(i).

(b) Except as provided in Subsection ~~(42)~~ (13)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment of goods or services described in Subsection ~~(42)~~ (13)(a) that are compensable under this chapter or Chapter 2, Workers’ Compensation Act.

BILLS PASSING SECOND CHAMBER

The following workers compensation-related bills passed the second chamber within the one-week period ending March 25, 2016.

Georgia

HB 216 was:

- Passed by the first chamber on February 25, 2016
- Included in NCCI’s March 4, 2016 *Legislative Activity Report* (RLA-2016-08)

- Amended and passed by the second chamber on March 24, 2016

HB 216 amends *section 34-9-280 Definitions* of the Official Code of Georgia Annotated as follows:

§ 34-9-280 Definitions

As used in this article, the term:

- (1) ‘Disablement’ means the event of an employee becoming actually disabled to work, as provided in Code Sections 34-9-261, 34-9-262, and 34-9-263, because of occupational disease.
- (2) ‘Occupational disease’ means those diseases which arise out of and in the course of the particular trade, occupation, process, or employment in which the employee is exposed to such disease or a risk factor for such disease, provided the employee or the employee’s dependents first prove to the satisfaction of the State Board of Workers’ Compensation all of the following:
 - (A) A direct causal connection between the conditions under which the work is performed and the disease;
 - (B) That the disease followed as a natural incident of exposure by reason of the employment;
 - (C) That the disease is not of a character to which the employee may have had substantial exposure outside of the employment;
 - (D)(i) That the disease is not an ordinary disease of life to which the general public is exposed; or
(ii) If the disease is cancer, which is otherwise considered an ordinary disease of life, that such employee is a firefighter, as defined in Code Section 25-4-2 or 45-9-81, and by a preponderance of the evidence, which shall include medical evidence, shows that the cancer is attributable to the firefighter’s performance of his or her duties as a firefighter; and
 - (E) That the disease must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence. For the purposes of this paragraph, partial loss of hearing due to noise shall not be considered an occupational disease. Psychiatric and psychological problems and heart and vascular diseases shall not be considered occupational diseases, except where they arise from a separate occupational disease.

HB 216 also includes the following language:

All laws and parts of laws in conflict with this Act are repealed.

HB 402 was:

- Passed by the first chamber on February 3, 2016
- Included in NCCI’s February 12, 2016 *Legislative Activity Report* (RLA-2016-05)
- Passed by the second chamber on March 22, 2016

HB 402 adds several new sections to the Official Code of Georgia Annotated as follows:

33-9-40.3

- (a) For each policy of workers’ compensation insurance issued or renewed in the state on and after July 1, 2016, there may be granted by the insurer up to a 5 percent reduction in the premium for such policy if the insured has been certified by the State Board of Education to the State Board of Workers’ Compensation as a work based learning employer pursuant to Article 12 of Chapter 9 of Title 34 and has notified its insurer in writing of such certification.
- (b) If granted, the premium discount provided by this Code section shall be applied to an insured’s policy of workers’ compensation insurance pro rata as of the date the insured receives such certification and shall continue for as long as the insured maintains the certification; provided, however, that an insurer shall not be required to credit the actual amount of the premium discount to the account of the insured until the final premium audit under such policy. Certification of an insured shall be required for each year in which a premium discount is granted.
- (c) If it is determined that an insured misrepresented its qualifications for certification pursuant to Article 12 of Chapter 9 of Title 34, the workers’ compensation insurance policy of such insured may be subject to an additional premium for the purposes of reimbursement of a previously granted premium discount and to cancellation in accordance with the provisions of the policy.
- (d) Each insurer shall make an annual report, in accordance with guidelines established by the Commissioner, to the rating and statistical organization designated by the Commissioner illustrating the total dollar amount of the premium discounts applied pursuant to this Code section.
- (e) The Commissioner shall conduct a study to determine the impact of the premium discounts provided pursuant to this Code section in encouraging employers to provide work based learning opportunities for students age 16 or older.
- (f) The Commissioner shall be authorized to promulgate rules and regulations necessary for the implementation and enforcement of this Code section.

34-9-2.4

(a) As used in this Code section, the term:

- (1) ‘Work based learning placement’ or ‘placement’ shall have the same meaning as in Code Section 34-9-430.
- (2) ‘Work based learning student’ or ‘student’ shall have the same meaning as in Code Section 34-9-430.
- (b) Notwithstanding the provisions of paragraph (2) of Code Section 34-9-1:
 - (1) A work based learning student in a paid work based learning placement for an employer shall be deemed an employee of such employer for purposes of workers’ compensation coverage; and
 - (2) A work based learning student in an unpaid work based learning placement for an employer shall be deemed an employee of such employer for purposes of workers’ compensation coverage unless all of the following conditions apply:
 - (A) The placement, even though it includes actual operation of the facilities of the employer, is similar to training which would be

given in an educational environment;

(B) The placement is for the benefit of the student;

(C) The student does not displace regular employees, but works under close supervision of existing staff;

(D) The employer that provides the training derives no immediate advantage from the activities of the student; and on occasion its operations may actually be impeded;

(E) The student is not necessarily entitled to a job at the conclusion of the placement; and

(F) The employer and the student understand that the student is not entitled to wages for the time spent in the placement.

34-9-430

As used in this article, the term:

(1) 'Employer' means a person or entity that is subject to the provisions of this chapter but shall not include the state or any department, agency, or instrumentality of the state; any county; any county or independent school system; any municipal corporation; or any employer which is self-insured for the purposes of this chapter.

(2) 'Employer member of a group self-insurance fund' means any employer who is a member of a fund certified pursuant to Code Section 34-9-153.

(3) 'Self-insured employer' means any employer certified pursuant to Code Section 34-9-127.

(4) 'Work based learning coordinator' means a school employee who coordinates and supervises students in work based learning placements.

(5) 'Work based learning employer' means an employer who provides work based learning placements in accordance with this article.

(6) 'Work based learning placement' or 'placement' means an arrangement between a business or industry partner and a local school system in which students are released for a portion of the school day for structured learning at an employer's job site in either a paid or unpaid position while receiving academic credit. Work based learning placements include, but are not limited to, employability skill development, service learning, cooperative education, internship, youth apprenticeship, and clinical experiences.

(7) 'Work based learning student' means a student age 16 or older in a work based learning placement for an employer.

34-9-431

(a) A work based learning employer that has been certified pursuant to this Code section may be eligible for a premium discount under such employer's workers' compensation insurance policy pursuant to Code Section 33-9-40.3.

(b) The State Board of Education shall certify to the State Board of Workers' Compensation that a work based learning employer meets the following requirements:

(1) Enters into a training agreement with one or more work based learning students, the student's parent or guardian, and the school's work based learning coordinator;

(2) Develops, in conjunction with the school's work based learning coordinator, a detailed training plan for the work based learning student that focuses on development of technical skills and employability skills;

(3) Assigns a mentor to the work based learning student and assist in monitoring the progress of such student;

(4) Provides workers' compensation insurance coverage for the work based learning student;

(5) Complies with all federal, state, and local laws and regulations regarding the employment of students; and

(6) Complies with the rules and regulations of the State Board of Education.

34-9-432

A self-insured employer or an employer member of a group self-insurance fund that provides work based learning placements for one or more work based learning students substantially in accordance with Code Section 34-9-431 and that complies with all other provisions of this article required of employers in order to qualify for insurance premium discounts may be certified by the State Board of Education to the State Board of Workers' Compensation as a work based learning employer in compliance with this article.

HB 818 was:

- Passed by the first chamber on February 17, 2016
- Included in NCCI's February 26, 2016 *Legislative Activity Report* (RLA-2016-07)
- Passed by the second chamber on March 24, 2016

HB 818 amends numerous sections of the Official Code of Georgia Annotated as follows:

§ 34-9-47. Trial division and appellate division created; composition; sessions

...

(c) The trial division shall be composed of administrative law judges appointed by the board who shall serve as hearing officers and exercise judicial functions in implementing this chapter. ~~Administrative law judges~~ An administrative law judge shall have the power to subpoena witnesses and administer oaths and may take testimony in those cases brought before the board. An administrative law judge hearing a case shall make an award, subject to review and appeal as provided in this chapter. An administrative law judge shall be subject to the Georgia Code of Judicial Conduct.

...

§ 34-9-121. Duty of employer to insure in licensed company or association or to deposit security, indemnity, or bond as self-insurer, application to out-of-state employers, and membership in mutual insurance company

(a) Unless otherwise ordered or permitted by the board, every employer subject to the provisions of this chapter relative to the payment of compensation shall secure and maintain full insurance against such employer's liability for payment of compensation under this article, such insurance to be secured from some person, corporation, association, or organization licensed by law to transact the business of workers' compensation insurance in this state or from some mutual insurance association formed by a group of employers so licensed; or such employer shall ~~furnish~~ provide the board with sufficient information for the board to make an adequate assessment of the employer's workers' compensation exposure and liabilities and shall further provide evidence satisfactory proof to the board of such employer's financial ability to pay the compensation directly in the amount and manner and when due, as provided for in this chapter. In the latter case, the board may, in its discretion, require the deposit of acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred; provided, however, that it shall be satisfactory proof of the employer's financial ability to pay the compensation directly in the amount and manner when due, as provided for in this chapter, and the equivalent of acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred, if the employer shall show the board that such employer is a member of a mutual insurance company duly licensed to do business in this state by the Commissioner of Insurance, as provided by the laws of this state, or of an association or group of employers so licensed and as such is exchanging contracts of insurance with the employers of this and other states through a medium specified and located in their agreements with each other, but this proviso shall in no way restrict or qualify the right of self-insurance as authorized in this Code section. Nothing in this Code section shall be construed to require an employer to place such employer's entire insurance in a single insurance carrier.

...

§ 34-9-261. Compensation for total disability

While the disability to work resulting from an injury is temporarily total, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the employee's average weekly wage but not more than ~~\$550.00~~ \$575.00 per week nor less than \$50.00 per week, except that when the weekly wage is below \$50.00, the employer shall pay a weekly benefit equal to the average weekly wage. The weekly benefit under this Code section shall be payable for a maximum period of 400 weeks from the date of injury; provided, however, that in the event of a catastrophic injury as defined in subsection (g) of Code Section 34-9-200.1, the weekly benefit under this Code section shall be paid until such time as the employee undergoes a change in condition for the better as provided in paragraph (1) of subsection (a) of Code Section 34-9-104.

§ 34-9-262. Compensation for temporary partial disability

Except as otherwise provided in Code Section 34-9-263, where the disability to work resulting from the injury is partial in character but temporary in quality, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the difference between the average weekly wage before the injury and the average weekly wage the employee is able to earn thereafter but not more than ~~\$367.00~~ \$383.00 per week for a period not exceeding 350 weeks from the date of injury.

§ 34-9-265. Compensation for death resulting from injury and other causes, penalty for death from injury proximately caused by intentional act of employer, and payment of death benefits where no dependents found ...

(d) The total compensation payable under this Code section to a surviving spouse as a sole dependent at the time of death and where there is no other dependent for one year or less after the death of the employee shall in no case exceed ~~\$220,000.00~~ \$230,000.00.

...

§ 34-9-380. Purpose of article

It is the purpose of this article through the establishment of a guaranty trust fund to provide for the continuation of workers' compensation benefits due and unpaid, excluding penalties, fines, and attorneys' fees assessed against a participant, when ~~a self-insured employer becomes insolvent~~ such participant becomes an insolvent self-insurer.

§ 34-9-381. Definitions

As used in this article, the term:

- (1) 'Applicant' means an employee entitled to workers' compensation benefits.
- (2) 'Board' means the State Board of Workers' Compensation.
- (3) 'Board of trustees' means the board of trustees of the fund.
- (4) 'Company' means a corporation, association, partnership, proprietorship, firm, or other form of business organization.
- (4) (5) 'Fund' means the Self-insurers Guaranty Trust Fund established by this article.
- (5) (6) 'Insolvent self-insurer' means a self-insurer:
 - (A) ~~a self-insurer who~~ Who files for relief under the federal Bankruptcy Act, a ;
 - (B) ~~self-insurer against~~ Against whom involuntary bankruptcy proceedings are filed, a ;
 - (C) ~~self-insurer for~~ For whom a receiver is appointed in a federal or state court of this state or any other jurisdiction, ~~or a self-insurer who ;~~
 - (D) Who is in default on workers' compensation obligations; or
 - (E) Who is determined by the board to be in default of its noncompliance with workers' compensation obligations or requirements

~~according to~~ under the laws of this state and the rules and regulations promulgated by the board of trustees and approved by of the board.

~~(6) (7)~~ 'Participant' means a self-insurer who is a member of the fund ~~and exclusive of those entities described in Article 5 of this chapter.~~

~~(7) (8)~~ 'Self-insurer' means a private employer, including any hospital authority created pursuant to the provisions of Article 4 of Chapter 7 of Title 31, the 'Hospital Authorities Law,' that has been authorized to self-insure its payment of workers' compensation benefits pursuant to this chapter, ~~except any~~. The term 'self-insurer' shall not mean or include any of the following:

(A) Any governmental self-insurer or other employer authorized by the board to self-insure;

(B) Any employer who elects to group self-insure pursuant to Code Section 34-9-152, captive;

(C) Captive insurers as provided for in Chapter 41 of Title 33, or employers;

(D) Any employer who, pursuant to any reciprocal agreements or contracts of indemnity executed prior to March 8, 1960, created funds for the purpose of satisfying the obligations of self-insured employers under this chapter; or

(E) Any individual or company who:

(i) Enters into a contract or agreement with an employer under which the employer outsources its workers' compensation risks, responsibilities, obligations, or liabilities to such individual or company; and

(ii) Pursuant to such contract or agreement, is required to provide workers' compensation benefits to an injured employee even though no common-law master-servant relationship or contract of employment exists between the injured employee and the individual or company providing the benefits.

~~(8) (9)~~ 'Trustee' means a member of the Self-insurers Guaranty Trust Fund board of trustees.

§ 34-9-382 Establishment of Self-insurers Guaranty Trust Fund, use of fund, and application to be accepted in fund

(a) There is established a Self-insurers Guaranty Trust Fund for the sole purpose of making payments in accordance with this article. The fund shall be administered by an administrator appointed by the chairperson of the board of trustees with the approval of the board of trustees. All moneys in the fund shall be held in trust and shall not be money or property of the state or the participants and shall be exempt from levy, attachment, garnishment, or civil judgment for any claim or cause of action other than for not making payments in accordance with this article. ~~The board of trustees shall be authorized to invest the moneys of the fund in the same manner as provided by law for investments in government backed securities~~ The fund assets shall be invested only in obligations issued or guaranteed by the United States government.

...

~~(c) As a condition of self-insurance, all private employers, except any governmental self-insurer or other employer who elects to group self-insure pursuant to Code Section 34-9-152, captive insurers as provided for in Chapter 41 of Title 33, or employers who, pursuant to any reciprocal agreements or contracts of indemnity executed prior to March 8, 1960, created funds for the purpose of satisfying the obligations of self-insured employers under this chapter, must those precluded from membership in the fund pursuant to subsection (d) of this Code section, shall~~ make application to and be accepted in the Self-insurers Guaranty Trust Fund.

(d) Membership in the fund shall not be permitted for any of the following:

(1) Any governmental employer authorized by the board to self-insure;

(2) Any employer who elects to group self-insure pursuant to Code Section 34-9-152;

(3) Captive insurers as provided for in Chapter 41 of Title 33;

(4) Any employer who, pursuant to any reciprocal agreements or contracts of indemnity executed prior to March 8, 1960, created funds for the purpose of satisfying the obligations of self-insured employers under this chapter; or

(5) Any individual or company who:

(A) Enters into a contract or agreement with an employer under which the employer outsources its workers' compensation risks, responsibilities, obligations, or liabilities to such individual or company; and

(B) Pursuant to such contract or agreement, is required to provide workers' compensation benefits to an injured employee even though no common-law master-servant relationship or contract of employment exists between the injured employee and the individual or company providing the benefits.

§ 34-9-384. General powers of board of trustees

...

~~(2)(A)~~ The board of trustees shall meet not less than quarterly and shall meet at other times upon the call of the chairperson, issued to the trustees in writing not less than 48 hours prior to the day and hour of the meeting, or upon a request for a meeting presented in writing to the chairperson not less than 72 hours prior to the proposed day and hour of the meeting and signed by at least a majority of the trustees, whereupon the chairperson shall provide notice issued in writing to the trustees not less than 48 hours prior to the meeting and shall convene the meeting at the time and place stated in the request; _

(B) Any trustee may participate in a meeting of the board of trustees by telephone conference or similar communications technology which allows all individuals participating in the meeting to hear and speak with each other. Participation in a meeting pursuant to this subparagraph shall constitute presence in person at such meeting.

...

§ 34-9-385. Bankruptcy of participants

(a) Any participant who files for relief under the federal Bankruptcy Act or against whom bankruptcy proceedings are filed or for

whom a receiver is appointed shall file written notice of such fact with the board and the board of trustees within 30 days of the occurrence of such event.

(b) Any ~~person~~ individual who files an application for adjustment of a claim against a participant who ~~is in default or has filed for relief under the federal Bankruptcy Act or against whom bankruptcy proceedings have been filed or for whom a receiver has been appointed~~ must or becomes an insolvent self-insurer shall file a written notice of such ~~fact~~ participant's status with the board and the board of trustees within 30 days of such ~~person's individual~~ having knowledge of the event participant becoming an insolvent self-insurer.

(c) Upon receipt of any notice as provided in subsection (a) or (b) of this Code section, the board shall determine whether the participant is an insolvent or in default ~~according to procedures established by the board of trustees and approved by the board self-insurer~~. Such determination shall be made within a reasonable time after the date the board and board of trustees receive notification as provided in subsection (a) or (b) of this Code section.

(d) When a participant is determined to be ~~in default or~~ an insolvent self-insurer, the board of trustees is empowered to and shall assume on behalf of the participant its outstanding workers' compensation obligations excluding penalties, fines, and claimant's attorneys' fees assessed against the participant pursuant to subsection (b) of Code Section 34-9-108 and shall take all steps necessary to collect, recover, and enforce all outstanding security, indemnity, insurance, or bonds furnished by such participant guaranteeing the payment of compensation provided in this chapter for the purpose of paying outstanding and continuing obligations of the participant. The board of trustees shall convert and deposit into ~~the fund~~ a separate account established within the fund such security and any amounts received under agreements of surety, guaranty, insurance, or otherwise on behalf of the participant. Any amounts remaining from such security, indemnity, insurance, bonds, guaranties, and sureties, following payment of all compensation costs and related administrative expenses and fees of the board of trustees including attorneys' fees, and following collection of all amounts assessed and received pursuant to subsections (a) and (d) of Code Section 34-9-121 and any applicable rule of the board may be refunded by the fund as directed by the board of trustees, subject to the approval of the board, to the appropriate party one year from the date of final payment and closure of all claims, provided no outstanding self-insured liabilities remain against the fund and ~~the all applicable statute statutes of limitations has~~ limitation have run.

...

§ 34-9-386. Assessment of participants, liability of fund and participants for claims, and revocation of participant's authority to be self-insured

...

(5) Funds obtained by such assessments shall be used only for the purposes set forth in this article and shall be deposited upon receipt by the board of trustees into the fund. If payment of any assessment, penalty, or fine made under this article is not made within 30 days of the sending of the notice to the participant, the board of trustees is authorized to do any or all of the following:

(A) Levy fines or penalties;

(B) Proceed in court for judgment against the participant, including the amount of the assessment, fines, penalties, the costs of suit, interest, and reasonable attorneys' fees;

(C) Proceed directly against the security pledged by the participant for the collection of same; or

(D) Seek revocation of the participant's ~~insured~~ self-insured status.

(b)(1) The fund shall be liable for claims arising out of injuries occurring after January 1, 1991; provided, however, that no claim may be asserted against the fund until the funding level has reached \$1.5 million.

(2) All active participants shall be required to maintain surety bonds or the board of trustees may, in its discretion, accept any an irrevocable letter of credit ~~or other acceptable forms of security~~ in the amount of no less than \$250,000.00. In addition, each active participant shall be required to purchase excess insurance for statutory limits with a self-insured retention specified by the board, and the excess policy shall include the bankruptcy endorsement required by the board and board of trustees. For participants who are no longer active, security in an amount commensurate with their remaining exposure, as determined by the board, shall be required until all self-insured claims have been closed and all applicable statutes of limitation have run.

(c) A participant who ceases to be a self-insurer shall be liable for any and all assessments, penalties, and fines made pursuant to this Code section for so long as indemnity or medical benefits are paid for claims which originated when the participant was a self-insurer. Assessments of such a participant shall be based on the indemnity and medical benefits paid by the participant during the previous calendar year.

(d) Upon refusal to pay assessments, penalties, or fines to the fund or upon refusal to comply with a board order ~~increasing security~~, the fund may treat the self-insurer as being in default with this chapter and the self-insurer shall be subject to revocation of its board authorization to self-insure and forfeiture of its security.

§ 34-9-387. Reimbursement and security deposit from participant for compensation obligations ...

(c) The board of trustees shall be a party in interest in any action or proceeding to obtain the security deposit of a participant for the payment of the participant's compensation obligations, in any action or proceeding under the participant's excess insurance policy, and in any other action or proceeding to enforce an agreement of any security deposit or captive or excess insurance carrier and from any other guarantee to satisfy such obligations. The fund is authorized to file a claim against ~~a bankrupt~~ an insolvent participant or the participant's agents and seek reimbursement for any payments made by the fund on behalf of the participant pursuant to this chapter. The fund is subrogated to the claim of any employee whose benefits are paid by the fund. Further, the fund shall have a lien against any reimbursement payments the participant is entitled to from the Subsequent Injury Trust Fund in an amount equal to the

payments made by the fund to satisfy the participant's liability for workers' compensation benefits.

§ 34-9-388. Reports of participant's insolvency, participant's audits, review of applications for self-insurance and recommendations thereon

...

(b) The board shall, at the inception of a participant's self-insured status and at least annually thereafter, so long as the participant remains self-insured, furnish the board of trustees with a complete, original bound copy of each participant's ~~audit~~ audited annual financial statement performed in accordance with generally accepted accounting standards by an independent certified public accounting firm, three to five years of loss history, name of the ~~person~~ individual or company to administer claims, and any other pertinent information submitted to the board to authenticate the participant's self-insured status. The board of trustees may contract for the services of a qualified certified public accountant or firm to review, analyze, and make recommendations on these documents. All financial information submitted by a participant shall be considered confidential and not public information.

HB 818 also contains the following clause:
All laws and parts of laws in conflict with this Act are repealed.

*NCCI estimates that if enacted, **HB 818**, which proposes increases in specified maximum benefits, would result in an impact of +1.5% (\$20M) on total workers compensation system costs in Georgia.*

Mississippi

SB 2193 was:

- Passed by the first chamber on February 25, 2016
- Included in NCCI's March 4, 2016 *Legislative Activity Report* (RLA-2016-08)
- Amended and passed by the second chamber on March 23, 2016

SB 2193, in part, amends *section 83-17-401 Definitions* of the Mississippi Code of 1972 as follows:

§ 83-17-401 Definitions

As used in this article, unless the context otherwise requires:

...

(e) "Workers' compensation adjuster" means an adjuster whose scope of licensure is limited to workers' compensation insurance. A workers' compensation adjuster may not represent an insured individual. A workers' compensation adjuster must comply with all licensing and continuing education requirements as are prescribed by the commissioner pursuant to this article.

...

BILLS PASSING FIRST CHAMBER

The following workers compensation-related bills passed the first chamber within the one-week period ending March 25, 2016.

Alabama

HB 270 makes various changes to the Alabama Captive Insurers Act including, but not limited to, the following amendments:

Section 27-31B-2 Definitions

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

...

~~(11)~~ (12) **EXCESS WORKERS' COMPENSATION INSURANCE.** In the case of an employer or group of employers that has insured or self-insured its workers' compensation risks in accordance with applicable state or federal law, insurance in excess of a specified per-incident or aggregate limit established by the commissioner.

...

Section 27-31B-3 Licensing

(a) Any captive insurance company, when permitted by its articles of association, charter, or other organizational document, may apply to the commissioner for a license to do any and all insurance defined in Sections 27-5-2, 27-5-4, and 27-5-5, in subdivisions (1), (2), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), and (14) of subsection (a) of Section 27-5-6, in Sections 27-5-7, 27-5-8, 27-5-9, and 27-5-10, and to grant annuity contracts as defined in Section 27-5-3, subject, however, to all of the following:

...

~~(6)~~ (7) Any captive insurance company may provide excess workers' compensation insurance to its parent and affiliated companies, and member organizations unless prohibited by the laws of the state having jurisdiction over the transaction. Any captive insurance company may reinsure workers' compensation of a qualified self-insured plan of its parent and affiliated companies.

...

Kentucky

HB 477 adds new *sections to Chapters 337, 341, and 342*; and, in part, amends *sections 337.990 Penalties* and *131.190 Information acquired in tax administration not to be divulged—Exceptions* of the Kentucky Revised Statutes, relating to misclassification of employees in the construction industry, as follows:

Chapter 337

(1) The General Assembly finds and declares that:

(a) Kentucky's construction industry is experiencing dangerous levels of employee misclassification fraud. Unscrupulous employers are intentionally reporting employees as independent contractors to state and federal authorities or workers' compensation carriers in record numbers. In addition, there has been an explosion of employers who operate in the underground economy and fail to report all or a sizable portion of their workers;

(b) A recent study of Kentucky's unemployment insurance audits for the years 2007–2010 found that on average, twenty-six and four-tenths percent (26.4%) of audited construction employers had misclassified workers as independent contractors. The audit results show that misclassification is a growing problem in Kentucky;

(c) Construction industry fraud reduces government revenue, shifts tax and workers' compensation insurance costs to law-abiding employers, lowers working conditions, and steals jobs from legitimate employers and their employees. Misclassification has a negative financial impact on individual workers, Kentucky state government, and the private sector in Kentucky;

(d) Testimony presented to the Kentucky General Assembly in 2014 estimated that construction employers who misclassify employees as independent contractors could reduce payroll costs by approximately thirty percent (30%), thereby creating a significant unfair competitive advantage over construction employers who abide by the law;

(e) It is estimated that the unemployment insurance system lost an average of one million seven hundred fifty thousand dollars (\$1,750,000) each year in the construction sector for the period 2007–2010 in unemployment insurance taxes that were not levied as a result of misclassification; and

(f) Based on Internal Revenue Service estimates that thirty percent (30%) of the income of misclassified workers in Kentucky is not reported, it is estimated that six million one hundred thirty thousand dollars (\$6,130,000) annually of state income tax revenues from the construction sector were lost in Kentucky for the period 2007–2010 as a result of employee misclassification.

(2) Therefore, the General Assembly finds it necessary to enact legislation similar to legislation that has been enacted in several states to address the problem of misclassification of employees in the construction industry.

Chapter 337

As used in Sections 1 to 10, 11, and 12 of this Act, unless the context otherwise requires:

(1) "Agent of the contractor" means a person having management authority or enforcement powers with respect to a practice or policy of the contractor regarding the classification of an employee, a corporate officer, or a member of the board of directors of the contractor;

(2) "Commissioner" means the commissioner of the Department of Workplace Standards;

(3) "Construction" means constructing, reconstructing, altering, maintaining, moving, rehabilitating, repairing, renovating, or demolishing any building, structure, or improvement, or activities relating to the excavation of or other development or improvement to land;

(4) "Contractor" means any sole proprietor, partnership, firm, corporation, limited liability company, association, or other legal entity permitted by law to do business within the Commonwealth of Kentucky who engages in construction. "Contractor" includes a general contractor, a subcontractor, and a lower-tiered contractor;

(5) "Department" means the Department of Workplace Standards in the Kentucky Labor Cabinet;

(6) "Division" means the Division of Employment Standards, Apprenticeship and Mediation in the Department of Workplace Standards;

(7) "Employer" means any contractor that employs individuals deemed employees under subsection (2) of Section 3 of this Act; and

(8) "Performing services" means the performance of construction.

Chapter 337

(1) Misclassification of an employee as an independent contractor is a violation of this section, and a contractor that violates this section shall be assessed a civil penalty under Section 11 of this Act.

(2) A person performing services for a contractor is presumed to be an employee of the contractor and not an independent contractor unless the person is a separate business entity and meets all the following criteria:

(a) The person is performing the services free from the direction or control over the means and manner of providing the service, subject only to the right of the contractor, for whom the service is provided, to specify the desired result;

(b) The person has the right to perform similar services and make those services available to the general public or the business community on a continuing basis;

(c) The person hires, if necessary, its own employees without contractor approval, pays the employees without reimbursement from the contractor, and reports the employees' income to the Internal Revenue Service;

(d) The person has an investment of capital beyond ordinary tools and equipment and a personal vehicle, and furnishes the tools and equipment necessary to perform the services;

(e) The person includes services rendered on a federal income tax schedule as an independent business or profession;

(f) The person gains the profits and bears the losses of the business; and

(g) The person performs the services for the contractor under a business entity's name, and the contractor does not represent the business entity as an employee of the contractor to its customers.

(3) The failure to withhold federal or state income taxes or to pay unemployment compensation contributions or workers' compensation premiums with respect to an individual's wages shall not be considered in making a determination under this section.

except as set forth in subsection (2) of this section.

(4) An individual's act of securing workers' compensation insurance with a carrier as a sole proprietor, partnership, or otherwise shall not be binding on any determination under this section.

(5) When a business entity meets the definition of a separate business entity pursuant to this section, the separate business entity shall be considered a contractor subject to Sections 1 to 10 of this Act in regard to the classification of individuals performing services for it.

Chapter 337

(1) Any person aggrieved by a contractor, or an agent of the contractor, for violations of Section 3, 5, or 7 of this Act, or any person who has a reasonable belief, based on good faith and without malicious intent, that the contractor or the agent of the contractor is in violation of or has violated Section 3 or 5 of this Act, may file a complaint with the division.

(2) (a) The division shall conduct an investigation to ascertain the facts relating to an alleged violation. The investigation may be made by written or oral inquiry, field visit, conference, or any method or combination of methods the division deems appropriate.

(b) If the commissioner determines that a contractor has violated a provision of Section 3, 5, or 7 of this Act, the commissioner may:

1. Issue and cause to be served an order to cease and desist from further violation;

2. Initiate actions to collect the amount of any wages, salary, employment benefits, or other compensation denied or lost to any person adversely affected by the violation;

3. In the case of unlawful retaliation, initiate actions to provide all legal or equitable relief as appropriate;

4. Assess civil penalties provided in Section 11 of this Act; and

5. Take affirmative or other action as deemed reasonable to eliminate the effect of a violation pursuant to the authority granted in KRS Chapters 336 and 337.

(3) All orders or decisions of the commissioner may be appealed, and upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Chapter 337

(1) A contractor or any agent of any contractor shall not retaliate through discharge or in any other manner against any person with regard to the terms or conditions of his or her employment for taking any of the following actions permitted under Sections 1 to 10 of this Act:

(a) Making or threatening to make a complaint to a contractor, a coworker, or a state or federal agency that rights guaranteed under Sections 1 to 10 of this Act have been violated;

(b) Causing to be instituted any proceeding under Section 4 or 6 of this Act; or

(c) Providing information to or testifying before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or administrative regulation by such employer.

(2) Any act of retaliation under this section shall subject a contractor to the civil penalties under Section 11 of this Act.

Chapter 337

In lieu of the administrative remedy provided in Section 4 of this Act, any person aggrieved by a contractor for a violation of Section 3 or 5 of this Act may file a civil action in Circuit Court in the county where the alleged violation occurred or where the aggrieved person resides. The court, in rendering a judgment in the civil action, may order:

(1) Restitution of any wages or other compensation denied or lost to the aggrieved person;

(2) In the case of unlawful retaliation, all legal or equitable relief as the court deems appropriate; and

(3) Reasonable attorney's fees and costs.

Chapter 337

(1) (a) Each contractor shall post in a prominent and accessible place on the site where the construction is performed a legible statement, provided by the commissioner, that describes the:

1. Responsibility of independent contractors to pay taxes required by state and federal law;

2. Rights of employees to workers' compensation, unemployment benefits, minimum wage, overtime, and other federal and state workplace protections;

3. Protections against retaliation in Section 5 of this Act; and

4. Penalties in Section 11 of this Act if the contractor fails to properly classify an individual as an employee.

(b) The notice shall also contain contact information for individuals to file complaints or inquire with the commissioner about employment classification status.

(c) This information shall be provided in English, Spanish, and other languages required by the commissioner.

(d) The posted statement shall be constructed of materials capable of withstanding adverse weather conditions.

(2) Within thirty (30) days of the effective date of this Act, the commissioner shall create the notice described in this section and post the notice on the cabinet's Web site for downloading by contractors.

Chapter 337

The commissioner shall promulgate administrative regulations as deemed necessary to implement and administer Sections 1 to 10 of this Act.

Chapter 337

Upon the issuance of an order, decision, or determination that a contractor has misclassified employees as independent contractors, the commissioner shall provide a copy of the order, decision, or determination to the commissioner of the Department of Revenue, the commissioner of the Department of Workers' Claims, and the Office of Employment and Training, Division of Unemployment Insurance, no later than sixty (60) days after the issuance of the order, decision, or determination. Information provided to agencies shall be confidential and shall not be published or open to public inspection.

Chapter 337

Sections 1 to 10 of this Act shall not be interpreted or construed to alter, supersede, or repeal other provisions of the Kentucky Revised Statutes, including those relating to wages and hours, occupational safety and health, workers' compensation, and unemployment insurance, but shall be held to be ancillary and supplemental thereto.

337.990 Penalties

The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

....

(7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405, and subsection (2) of Section 7 of this Act, or willfully hinders or delays the commissioner or the commissioner's authorized representative in the performance of his or her duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the commissioner or the commissioner's authorized representative shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for any subsequent violation of KRS 337.285(4) to (9) and each day the employer violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

....

(15) (a) Upon a final determination of a violation of Section 3 of this Act, the contractor shall be assessed a civil penalty not to exceed one thousand dollars (\$1,000) for the first violation. A contractor shall be assessed a civil penalty not to exceed five thousand dollars (\$5,000) for each subsequent final determination of a violation within a five (5) year period.

(b) 1. Any contractor who willfully violates Section 3 of this Act, or obstructs the commissioner, his authorized representative, or any other person authorized to inspect places of employment, shall be liable for civil penalties up to double the amount provided in paragraph (a) of this subsection.

2. The increased civil penalty shall be imposed in cases in which a contractor's conduct is proven by a preponderance of the evidence to be willful.

3. For the purposes of this paragraph, the term "willfully violates" means a contractor knew or should have known that his or her conduct was prohibited.

(c) The civil penalties imposed in this subsection shall be in addition to any other penalties provided or recovered under other provisions of the Kentucky Revised Statutes or federal law.

(16) A contractor shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for a violation of Section 5 of this Act.

(17) A contractor that is a corporation, any officer of the corporation, or any shareholder who owns or controls at least ten percent (10%) of the outstanding stock of the corporation who knowingly permits the corporation to willfully violate Sections 1 to 10 of this Act shall also be in violation of and subject to the civil penalties issued in the commissioner's order, decision, or determination.

(18) Any penalties imposed under this section by the commissioner may be appealed, and upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

131.190 Information acquired in tax administration not to be divulged—Exceptions.

....

(8) Notwithstanding any other provision of the Kentucky Revised Statutes, the department shall provide a copy of any assessment for failure to pay business, corporate, or personal income tax by an employer in the construction industry arising out of the misclassification of an employee, on a confidential basis, to the commissioner of the Department of Workplace Standards, the commissioner of the Department of Workers' Claims, and the Office of Employment and Training, Division of Unemployment Insurance no later than sixty (60) days after the issuance of the assessment.

Chapter 341

Pursuant to KRS 341.190(3), the Office of Employment and Training, Division of Unemployment Insurance shall provide a copy of any assessment for failure to pay unemployment insurance taxes by an employer in the construction industry arising out of the misclassification of an employee to the commissioner of the Department of Workplace Standards, the commissioner of the Department of Workers' Claims, and the commissioner of the Department of Revenue no later than sixty (60) days after the issuance of the assessment.

Chapter 342

Notwithstanding any confidentiality provisions contained in this chapter, the commissioner of the Department of Workers' Claims shall provide a copy of any order relating to the misclassification of an employee, the intentional and material underpayment or concealment of payroll, or the failure to secure workers' compensation in the construction industry to the commissioner, the commissioner of the Department of Revenue, and the Office of Employment and Training, Division of Unemployment Insurance no later than sixty (60) days after the issuance of the order.

Maryland

HB 958 amends *section 11-307 Rate Filings* of the Maryland Insurance Code as follows:

Section 11-307 Rate Filings

(a) Required.—

(1) Except as otherwise provided in this subsection, each authorized insurer and each rating organization that has been designated by an insurer for the filing of rates under subsection (b) of this section shall file with the Commissioner all rates and supplementary rate information and all changes and amendments of rates and supplementary information made by it for use in the State on or before the date they become effective.

(2) Rates and supplementary rate information need not be filed for inland marine risks that by general custom are not written according to manual rules or rating plans.

(b) Establishing rates and supplementary rate information.—

(1) An insurer may itself establish rates and supplementary rate information based on the factors in § 11-306 of this subtitle.

(2) Except for workers' compensation insurance rates, an insurer may use rates and supplementary rate information prepared and filed with the Commissioner by a rating organization of which it is a member or subscriber, with average loss factors or expense factors determined by the rating organization or with modification for its own expense and loss experience as the credibility of that experience allows.

(3) If an insurer uses rates and supplementary rate information prepared by a rating organization:

(i) the insurer shall notify the Commissioner that it uses rates and supplementary rate information prepared and filed with the Commissioner by a designated rating organization of which it is a member or subscriber and shall provide the Commissioner with information about modifications of those rates and supplementary rate information that is necessary to inform the Commissioner fully; and

(ii) subject to modifications filed by the insurer, the insurer's rates and supplementary rate information shall be those filed periodically by the rating organization, including any amendments to those filings.

(c) Public inspection.—

(1) In this subsection, "proprietary rate-related information":

(i) Means a rating model; and

(ii) Includes the formulas, algorithms, analyses, and specific weights given to variables used in the model.

~~(2)~~ (i) Except as provided in paragraph (3) of this subsection, Each filing and any supporting information filed under this subtitle shall be open to public inspection as soon as filed.

~~(ii)~~ On request and payment of a reasonable charge, a person may obtain copies of a filing and any supporting information.

(3) (i) Information that an insurer files with the Commissioner and identifies as proprietary rate-related information:

1. Constitutes a trade secret and confidential commercial information;

2. Subject to Subparagraph (ii) of this paragraph and except as provided in subparagraph (iii) of this paragraph, shall be kept confidential by the Commissioner; and

3. Is not subject to subpoena served on the Commissioner or any recipient of proprietary rate-related information under subparagraph (iii) of this paragraph.

(ii) 1. Except as provided in subparagraph 2 of this subparagraph, if the Commissioner determines that some or all of the material that an insurer files and identifies as proprietary rate-related information does not constitute proprietary rate-related information as defined in paragraph (1) of this subsection, the Commissioner shall:

A. Give the insurer written notice of that determination; and

B. Make the material open to public inspection 10 business days after the date the Commissioner gives notice of the determination to the insurer.

2. The Commissioner may not disclose the material if:

A. The insurer has not put the rate filing into effect; and

B. Within the time period described in subparagraph 1B of this subparagraph, the insurer withdraws the rate filing and notifies the Commissioner that the rate filing is withdrawn;

(iii) This paragraph does not prohibit the Commissioner from disclosing an insurer's proprietary rate-related information;

1. In furtherance of a regulatory or legal action that the Commissioner undertakes in performing the Commissioner's duties under the article; or

2. If the recipient enters into a written agreement to maintain the confidentiality of the proprietary rate-related information, to:

A. An outside consultant that the Commissioner engages to assist the Commissioner in reviewing the insurer's rate filing;

B. Another state's insurance regulatory agency;

C. The National Association of Insurance Commissioners; or

D. A state or federal law enforcement authority, including the United States Department of Justice and the Maryland Attorney General, if acting in a law enforcement capacity.

(iv) The Commissioner shall notify the insurer in writing at least 10 business days before the Commissioner discloses any of the insurer's proprietary rate-related information under subparagraph (iii) of this paragraph.

(v) In addition to any other rights an insurer may have under any other applicable law, the insurer may seek to have any disclosure of the insurer's proprietary rate-related information under subparagraph (iii) of this paragraph be made under seal or other protection of confidentiality.

(vi) There is no waiver of any applicable privilege or claim of confidentiality with regard to any proprietary rate-related information that is disclosed under subparagraph (iii) of this paragraph.

(4) This subsection may not be construed to:

(i) Authorize an insurer to designate the rating factors used to calculate the premium as proprietary rate-related information; or

(ii) Authorize the Commissioner to keep the rating factors confidential.

(d) Action by Commissioner.—

(1) The Commissioner may investigate and determine whether or not rates in the State are excessive, inadequate, or unfairly discriminatory.

(2) In an investigation and determination under this subsection, the Commissioner shall give due consideration to the factors specified in § 11-306 of this subtitle.

Note: HB 958 is similar, but not identical, to **SB 839**.

SB 839 amends *section 11-3007 Rate Filings* of the Maryland Insurance Code as follows:

11-307 Rate Filings

(a) Required.—

(1) Except as otherwise provided in this subsection, each authorized insurer and each rating organization that has been designated by an insurer for the filing of rates under subsection (b) of this section shall file with the Commissioner all rates and supplementary rate information and all changes and amendments of rates and supplementary information made by it for use in the State on or before the date they become effective.

(2) Rates and supplementary rate information need not be filed for inland marine risks that by general custom are not written according to manual rules or rating plans.

(b) Establishing rates and supplementary rate information.—

(1) An insurer may itself establish rates and supplementary rate information based on the factors in § 11-306 of this subtitle.

(2) Except for workers' compensation insurance rates, an insurer may use rates and supplementary rate information prepared and filed with the Commissioner by a rating organization of which it is a member or subscriber, with average loss factors or expense factors determined by the rating organization or with modification for its own expense and loss experience as the credibility of that experience allows.

(3) If an insurer uses rates and supplementary rate information prepared by a rating organization:

(i) the insurer shall notify the Commissioner that it uses rates and supplementary rate information prepared and filed with the Commissioner by a designated rating organization of which it is a member or subscriber and shall provide the Commissioner with information about modifications of those rates and supplementary rate information that is necessary to inform the Commissioner fully; and

(ii) subject to modifications filed by the insurer, the insurer's rates and supplementary rate information shall be those filed periodically by the rating organization, including any amendments to those filings.

(c) Public inspection.—

(1) In this subsection, "proprietary rate-related information":

(i) means a rating model; and

(ii) includes the formulas, algorithms, analyses, and specific weights given to variables used in the model.

~~(2) (i) Each~~ (2) (i) Except as provided in paragraph (3) of this subsection, each filing and any supporting information filed under this subtitle shall be open to public inspection as soon as filed.

~~(2) (ii)~~ (ii) On request and payment of a reasonable charge, a person may obtain copies of a filing and any supporting information.

(3) (i) information that an insurer files with the Commissioner and identifies as proprietary rate-related information:

1. Constitutes a trade secret and confidential commercial information;

2. Subject to subparagraph (ii) of this paragraph and except as provided in subparagraph (iii) of this paragraph, shall be kept confidential by the Commissioner; and

3. Is not subject to subpoena served on the Commissioner or any recipient of proprietary rate-related information under subparagraph (iii) of this paragraph.

(ii) 1. If except as provided in subsubparagraph 2 of this subparagraph, if the Commissioner determines that some or all of the material that an insurer files and identifies as proprietary rate-related information does not constitute proprietary rate-related information as defined in paragraph (1) of this subsection, the Commissioner shall:

A. Give the insurer written notice of that determination; and

B. Make the material open to public inspection 10 business days after the date the Commissioner gives notice of the determination to the insurer.

2. The Commissioner may not disclose the material if:

A. The insurer has not put the rate filing into effect; and

B. Within the time period described in subsubparagraph 1b of this subparagraph, the insurer withdraws the rate filing and notifies the Commissioner that the rate filing is withdrawn.

(iii) this paragraph does not prohibit the Commissioner from disclosing an insurer's proprietary rate-related information:

1. In furtherance of a regulatory or legal action that the Commissioner undertakes in performing the Commissioner's duties under this article:

2. If the recipient enters into a written agreement to maintain the confidentiality of the proprietary rate-related information, to:

A. An outside consultant that the Commissioner engages to assist the Commissioner in reviewing the insurer's rate filing;

B. Another state's insurance regulatory agency;

C. The National Association of Insurance Commissioners; or

D. A state or federal law enforcement authority, including the United States Department of Justice and the Maryland Attorney General, if acting in a law enforcement capacity; or

3. If the proprietary rate-related information is part of a homeowner's insurance or medical malpractice insurance rate filing, to the People's Insurance Counsel Division acting under § 6-306 of the state government article.

(iv) the People's Insurance Counsel Division shall maintain the confidentiality of proprietary rate-related information disclosed to the division under item 3 of this subparagraph.

~~(v)~~ (v) the Commissioner shall notify the insurer in writing at least 10 business days before the Commissioner discloses any of the insurer's proprietary rate-related information under subparagraph (iii) of this paragraph.

~~(vi)~~ (vi) in addition to any other rights an insurer may have under any other applicable law, the insurer may seek to have any disclosure of the insurer's proprietary rate-related information under subparagraph (iii)1 of this paragraph be made under seal or other protection of confidentiality.

~~(vii)~~ (vii) there is no waiver of any applicable privilege or claim of confidentiality with regard to any proprietary rate-related information that is disclosed under subparagraph (iii) of this paragraph.

(4) This subsection may not be construed to:

(i) authorize an insurer to designate the rating factors used to calculate the premium as proprietary rate-related information; or

(ii) authorize the Commissioner to keep the rating factors confidential.

(d) Action by Commissioner.—

(1) The Commissioner may investigate and determine whether or not rates in the State are excessive, inadequate, or unfairly discriminatory.

(2) In an investigation and determination under this subsection, the Commissioner shall give due consideration to the factors specified in § 11-306 of this subtitle.

Note: **SB 839** is similar, but not identical to, **HB 958**.

SB 1058 amends *section 9-628 Compensation for less than 75 weeks* of the Maryland Labor and Employment Code as follows:
§ 9-628 Compensation for less than 75 weeks.

(a) "Public safety employee" defined.—In this section, "public safety employee" means:

...

(8) an Anne Arundel County deputy sheriff or detention officer; ~~or~~

(9) a Baltimore County deputy sheriff, but only when the deputy sheriff sustains an accidental personal injury that arises out of and in the course and scope of performing duties directly related to:

(i) courthouse security;

(ii) prisoner transportation;

(iii) service of warrants;

(iv) personnel management; or

(v) other administrative duties ; ~~or~~

(10) a Baltimore City deputy sheriff.

...

(h) Exception for public safety employees.—If a public safety employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay the public safety employee compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9-629 of this subtitle.

Vermont

HB 872 adjusts certain Executive Branch fees including, but not limited to, the following regarding the Workers' Compensation Fund:

Workers' Compensation Rate of Contribution

For fiscal year 2017, after consideration of the formula in 21 V.S.A. Section 711(b) and historical rate trends, the General Assembly has established that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall be set at the rate of 1.45 percent established in 2015 Acts and Resolves No. 57, Sec. 25, notwithstanding 21 V.S.A. Section 711(a). The

contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

The following section contains monthly updates on significant legislative activity, judicial decisions, and regulatory committee activity that may impact the workers compensation system and will be included in the report the first week of every month throughout the year.

FEDERAL ISSUES

Issue	Update
Congress	Budget issues for the upcoming 2017 fiscal year are the focus of Congress, as it remains unclear whether a budget will be approved through the normal process or if stopgap measures such as Continuing Resolutions will be needed to fund the government. Despite the typical impact presidential election years have on policymaking, it remains possible that several issues impacting workers compensation (such as longshore and Medicare set-aside reform legislation) may be addressed this year.
TRIPRA of 2015 Implementation	<p>NCCI continues to work with the Federal Insurance Office (FIO) as FIO implements key provisions of the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) of 2015, most notably, the data reporting requirements in Section 111. In March, FIO released guidance requesting—not requiring—the reporting of 2015 terrorism insurance data for all covered lines through a newly created portal on an individual-company basis by April 30, 2016.</p> <p>The FIO guidance is informational only and is not part of a formal rulemaking, which is expected in the third quarter of 2016. However, FIO has indicated that reporting will be mandatory for carriers beginning in 2017.</p> <p>The National Association of Insurance Commissioners (NAIC) has adopted a data call for Terrorism Insurance Coverage to collect terrorism insurance data. Eleven states (CA, CT, DC, FL, IL, LA, MO, NY, PA, RI, and TX) will be participating in the 2016 data call, but it is anticipated that additional states will join in subsequent years. The New York Department of Financial Services (DFS) will be coordinating the call, given its robust statutory framework allowing for the protection of terrorism insurance data. NCCI will be providing the DFS with the workers compensation data required in the data call. The NAIC indicated that, given the changes to TRIPRA made during the reauthorization earlier this year, it is necessary that terrorism insurance data be collected for purposes of solvency regulation and general market oversight.</p>
FIO Advisory Committee on Risk-Sharing Mechanisms	The FIO Advisory Committee on Risk-Sharing Mechanisms (ACRSM) conducted its first meeting. The committee was created under TRIPRA of 2015 and is charged with developing recommendations on potential alternatives to the current federal backstop to insure against losses from acts of terrorism. FIO Director Michael McRaith, who chairs the committee, intends for it to be a working committee that will develop work products and recommendations to help educate and inform the next TRIPRA reauthorization debate. The Committee indicated that it will provide input on terrorism insurance data elements for future FIO Section 111 data calls, which will likely broaden the information the industry is required to provide.
Congressional Developments: Workers Compensation	<p>The House of Representatives Education and the Workforce Committee held a hearing on policies and priorities of the US Department of Labor (DOL). It was anticipated that workers compensation may be discussed given the issuance in 2015 of an Occupational Safety and Health Administration (OSHA) report and the congressional letter sent to the DOL that was critical of the state-based system of workers compensation. Secretary of Labor Thomas Perez was the only witness but did not mention workers compensation during his prepared remarks.</p> <p>However, during questioning of Secretary Perez, Committee member Rep. Kathleen Clark (D-MA) raised concerns over “changes” in the state-based workers compensation system and questioned the adequacy of the system. Rep. Clark referenced the 2015 OSHA report that was critical of the system, provided an example of how she felt the system had not worked well for a specific constituent, and asked Secretary Perez what the DOL could do to address her concerns. Secretary Perez acknowledged the letter from 10 members of Congress that he received in 2015.</p> <p>The Secretary indicated in his response that data shows an emerging trend that workplace injuries are a pathway to poverty (he did not cite specific data), and he referenced a cost-shifting to Social Security Disability Insurance (SSDI). The Secretary indicated that the DOL is assessing what steps it may take to address concerns, and he acknowledged that the ability of the federal government to respond is limited and that concerns need to be addressed at the state level.</p>

STATE COMMITTEE ACTIVITY

State	Update
Oklahoma	The Insurance Department held a public hearing on March 22, 2016, to take comments and questions on proposed rules to amend or define workers compensation small, large, and mega deductibles. The small deductible provisions would impact an employer's experience rating calculations by creating a net reporting mechanism. <i>NCCI expects that the adoption of the proposed changes to deductible loss amounts to be excluded from experience rating would have little, if any, impact on overall workers compensation system costs.</i>

The bills included in the following section have been filed, but have not yet passed the first chamber.

STATE LEGISLATIVE ACTIVITY

State	Update
Louisiana	HB 345 allows the disclosure of workers compensation information to specified third-party entities that provide insurance support organization services. SB 44 provides for workers compensation insurance premium reductions to employers as the result of judgments or settlements recouped from a third party. <i>SB 44, if enacted in its current form, would materially alter how NCCI calculates experience rating modifications based on subrogation recoveries and when such recoveries must be reported to NCCI.</i>

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
HI	Carolyn Pearl	808-524-6239
IN, NC, SC, TN	Amy Quinn	803-356-0851
AR, IL, KS, TX	Terri Robinson	501-333-2835
AK, ID, MT, OR	Jessica Epley	503-892-8919
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.