



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

There were no relevant workers compensation-related bills enacted within the one-week period ending May 6, 2016.

BILLS PASSING SECOND CHAMBER

The following workers compensation-related bills passed the second chamber within the one-week period ending May 6, 2016.

Note: Any bill that passes the first chamber and is amended and passed by the second chamber must be returned to the first chamber for concurrence before going to the governor for signature.

Colorado

SB 16-198 was:

- Passed by the first chamber on May 2, 2016
- Passed by the second chamber on May 4, 2016

SB 16-198 amends *section 8-44-102. Contract for insurance subject to workers' compensation act* of the Colorado Revised Statutes as follows:

8-44-102. Contract for insurance subject to workers' compensation act

...

(2) (a) (I) Except as specified in subparagraph (III) of this paragraph (a), Every carrier providing workers' compensation insurance that is authorized to conduct business in Colorado shall submit an annual report to the commissioner of insurance listing any policy forms, endorsements, riders, letters, notices, or other documents affecting an insurance policy or contract issued or delivered to any policyholder in Colorado as may be requested by the commissioner. The listing must be submitted no later than July 1 of each year and must contain a certification by an officer of the carrier that, to the best of the officer's knowledge, each policy form, endorsement, rider, letter, notice, or other document affecting an insurance policy or contract in use complies with Colorado law. The commissioner shall determine the necessary elements of the certification.

(II) (A) An advisory organization as defined in section 10-4-402 (1), c.r.s., or a rating organization as defined in section 10-4-402 (3), C.R.S., shall submit an annual report to the commissioner of insurance listing any policy forms as may be requested by the commissioner. The listing must be submitted no later than July 1 of each year and must contain a certification by an officer of the organization that, to the best of the officer's knowledge, each policy form listed complies with Colorado law. The commissioner shall determine the necessary elements of the certification.

(B) As used in this section, "form" may include any endorsement, rider, letter, notice, or other document affecting an insurance policy or contract issued or delivered to any policyholder in Colorado.

(III) If a carrier uses, in their entirety and without modification, forms prepared by an advisory organization as defined in section 10-4-402 (1), C.R.S., or a rating organization as defined in section 10-4-402 (3), C.R.S., the carrier shall notify the commissioner of insurance that it adopts the annual report filed by the advisory organization or rating organization under subparagraph (II) of this paragraph (a) and, if it so notifies the commissioner, it need not submit the certification required by subparagraph (I) of this paragraph (a). If a carrier uses forms that deviate from the forms listed by the advisory organization or rating organization, or if it uses forms other than those listed by the advisory organization or rating organization, the carrier shall submit the annual listing of

forms and certification as required by subparagraph (I) of this paragraph (a).

(b) In addition to submitting the documentation required under paragraph (a) of this subsection (2) and except as specified in subparagraph (III) of this paragraph (b):

(I) Every carrier providing workers' compensation insurance that is authorized to conduct business in Colorado, every advisory organization as defined in section 10-4-402 (1), C.R.S., and every rating organization as defined in section 10-4-402 (3), C.R.S., shall also submit to the commissioner a list of any new policy forms, endorsements, riders, letters, notices, or other documents as may be requested by the commissioner at least thirty-one days before using a carrier uses the policy forms, endorsements, riders, letters, notices, or other documents.

(II) The listing must also contain a certification by an officer of the carrier or an officer of the advisory or rating organization that, to the best of the officer's knowledge, each new policy form, endorsement, rider, letter, notice, or other document proposed to be used complies with Colorado law. The commissioner shall determine the necessary elements of the certification.

(III) If an advisory organization or rating organization certifies a form as required by subparagraph (II) of this paragraph (b) and a carrier is a member of that organization and uses the form in its entirety, the carrier need not list that form as required by subparagraph (I) of this paragraph (b) or submit a certification for that form as required by subparagraph (II) of this paragraph (b).

(c) The commissioner may examine and investigate workers' compensation carriers authorized to conduct business in Colorado to determine whether workers' compensation policy forms, endorsements, riders, letters, notices, or other forms as may be requested by the commissioner comply with the certification of the carrier and statutory mandates.

Note: SB 16-198 was not included in any previous version of NCCI's *Legislative Activity Report*.

Connecticut

SB 101 was:

- Passed by the first chamber on April 27, 2016
- Included in NCCI's May 6, 2016 *Legislative Activity Report* (RLA-2016-17)
- Passed by the second chamber on May 3, 2016

SB 101 amends *section 31-286a Insurance requirements for contractors on public works projects and renewals of state business licenses* of the Connecticut Workers Compensation Act as follows:

31-286a Insurance requirements for contractors on public works projects and renewals of state business licenses.

(a) Notwithstanding any provision of any general statute, special act, charter or ordinance, neither the state, or its agents, nor any political subdivision of the state, or its agents, may enter into any contract on or after October 1, 1986, for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project before receiving from each of the other parties to such contract (1) sufficient evidence of compliance with the workers' compensation insurance and self-insurance requirements of subsection (b) of section 31-284, and (2) a current statement from the State Treasurer that, to the best of his knowledge and belief, as of the date of the statement, the particular party was not liable to the state for any workers' compensation payments made pursuant to section 31-355, except that any sole proprietor who is a party to such contract shall not be subject to the provisions of this section, provided such sole proprietor (A) does not utilize any subcontractor in performing such contract, (B) is not acting as a principal employer, (C) has not accepted the provisions of chapter 568 in accordance with subdivision (10) of section 31-275, and (D) has liability insurance in lieu of workers' compensation insurance.

...

BILLS PASSING FIRST CHAMBER

The following workers compensation-related bills passed the first chamber within the one-week period ending May 6, 2016.

Louisiana

HB 280 amends *sections 23:1191. Definitions, 23:1197. Authority of Department of Insurance, and 23:1200.5. Insolvencies*; and creates *section 1200.18 Dissolution* of the Louisiana Revised Statutes as follows:

§1191. Definitions

For the purposes of this Subpart, the following terms have the following meaning:

...

(3) "Hazardous financial condition" means that, based upon its present or reasonably anticipated financial condition, a fund, although not yet financially impaired or insolvent, is unlikely to be able to:

- (a) Meet obligations with respect to known claims and reasonably anticipated claims.
- (b) Pay other obligations in the normal course of business.

§1197. Authority of Department of Insurance

...

D. The department shall have authority to issue cease and desist orders and suspend or revoke the certificate of authority of any fund which the department determines is not in compliance with this Subpart or with any rules and regulations issued by the department or orders and directives issued by the commissioner. Without limiting the generality of the provisions of this Subsection, a cease and desist order may include a prohibition on writing or incurring any new or renewal business by the fund.

E. Upon the determination by the commissioner that a fund or any trustee, member, officer, director, or employee of a fund failed to

comply with the provisions of this Subpart, any applicable laws relating to the fund or any rules and regulations promulgated by the department or orders and directives issued by the commissioner, the department may levy a fine not to exceed two thousand dollars for each violation. If the conduct for which a previous fine was levied by the department is committed again, the department may levy a fine not to exceed four thousand dollars. The enforcement of any fine and any appeal from a fine shall be conducted in accordance with the Administrative Procedure Act.

...

H.(1) The commissioner is authorized to order a group self-insurance fund to submit a corrective action plan to the commissioner for his approval to remediate any noncompliance or financial issues affecting the fund. This authority is in addition to any other authority the commissioner holds.

(2) The corrective action plan shall be submitted by the fund to the commissioner for his approval and include standards, time frames, and other parameters acceptable to the commissioner. Any corrective action plan that is submitted to the commissioner by a fund is confidential and not subject to the Public Records Law, R.S. 44:1 et seq.

(3) Without limiting the discretion of the commissioner, the corrective action plan may include any of the following:

(a) Mandatory training.

(b) On-or off-site monitoring and supervision of the activities of the fund for a specified period of time to determine progress regarding correction of deficiencies.

(c) The submission of written progress reports.

(d) The institution of measures to conserve or generate additional funding for the fund.

(e) The imposition of fines and penalties for any misconduct which contributed to the need for the imposition of the corrective action plan.

(4) Failure by the group self-insurance fund to comply with a corrective action plan approved by the commissioner may result in any of the following:

(a) The imposition of fines and penalties.

(b) Revocation of the fund's certificate of authority.

(c) Placement of the fund into confidential administrative supervision.

(d) Placement of the fund into conservation, rehabilitation, or liquidation.

§1200.5. Insolvencies

...

D.(1) In addition to any other powers of the commissioner, in the event that a group self-insurance fund is insolvent, operating in a hazardous financial condition, or operating in violation of the requirements of this Subpart, the commissioner is hereby expressly authorized to institute delinquency proceedings against the fund, including entering an order for injunctive relief or placing the fund into confidential administrative supervision, conservation, rehabilitation, or liquidation.

(2)(a) The Nineteenth Judicial District Court shall have exclusive jurisdiction to hear any delinquency proceeding instituted by the commissioner for the failure of a fund to comply with the approved corrective action plan.

(b) The court may issue an injunction to restrain the fund and its officers, agents, directors, or employees from transacting any insurance business or disposing of property until further action by the court. The court may issue any other such injunction as it deems necessary to prevent interference with the proceedings or with the ability of the commissioner to conduct business, as well as any injunction sought to protect any assets that are in the control of the commissioner.

(3) The commissioner shall promulgate rules and regulations in accordance with the Administrative Procedure Act providing for the grounds, conduct, and procedures applicable to the delinquency proceedings.

E. The distribution of general assets from the estate of a fund shall be prioritized as follows:

(1) The commissioner's costs and expenses of administration.

(2) Any amounts payable to the Louisiana Workers' Compensation Second Injury Fund, when the commissioner makes a determination that the payment is in the best interest of the estate of the fund.

(3) Payment of claims by injured workers, beneficiaries, and insureds arising from and within the coverage of agreements or evidences of coverage issued by the fund, up to the policy limits.

(4) Payment of claims by the federal government other than those claims otherwise prioritized within this Subsection.

(5)(a) Payment of compensation owed to employees of the fund, excluding officers, for services rendered within three months prior to the commencement of a proceeding against the fund, up to two thousand five hundred dollars for each employee.

(b) Payment to employees shall occur as soon as practicable after the proceeding has commenced provided that the commissioner has reserved the funds sufficient for the payment of claims as prioritized pursuant to this Subsection.

(6) Payment of claims for unearned premiums or other premium refunds and claims of general creditors, including claims of any ceding and assuming company in their capacity as such.

(7) Payment of all other claims.

§1200.18. Dissolution

A. A fund wishing to dissolve shall apply to the commissioner for authority to dissolve. An application to dissolve shall be on a form prescribed by the commissioner and shall be approved or disapproved by the commissioner within sixty days of receipt.

B. Dissolution of a fund without authorization is prohibited and shall not absolve or release a fund, a member, or any person or entity which has executed an indemnity agreement from the fund's or person's obligations incurred or entered into prior to the dissolution

of the fund.

C. An application to dissolve shall be granted if either of the following conditions is met:

(1) The fund has no outstanding liabilities including incurred but not reported liabilities.

(2) The fund is covered by an irrevocable commitment from a licensed insurer which provides for payment of all outstanding liabilities and for providing all related services, including payment of claims, preparation of reports, and administration of transactions associated with the period during which the plan provided coverage.

D. Upon dissolution of any fund and after payment of all outstanding liabilities and indebtedness, the assets of the fund shall be distributed to all employers participating in the fund pursuant to a distribution plan submitted by the fund to the department and approved by the commissioner.

SB 44 amends *section 23:1103. Damages; apportionment of between employer and employee in suits against third persons; compromise of claims; credit* of the Louisiana Revised Statutes as follows:

§1103. Damages; apportionment of between employer and employee in suits against third persons; compromise of claims; credit

...

D. An insurer shall grant its insured a dollar-for-dollar credit for any amount on any claim paid pursuant to this Chapter on the employer's behalf and recovered in the current year, less any reasonable expenses incurred in the recovery by the insurer, in an action or compromise pursuant to this Section and R.S. 23:1102. The credit shall be used by the insurer in the calculation, ~~including but not limited to loss experience ratios,~~ of the loss experience modifier promulgated by and in accordance with the rules of the National Council on Compensation Insurance, to be applied in determining the annual premium paid by the employer for workers' compensation insurance under this Chapter. The group self-insurance fund shall apply the loss experience modifier authorized by R.S. 23:1196.

BILLS VETOED BY THE GOVERNOR

The following workers compensation-related bill was vetoed within the one-week period ending May 6, 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
- Included in NCCI's April 1, 2016 *Legislative Activity Report* (RLA-2016-12)
- Vetoed by the Governor on May 3, 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.

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.