



LEGISLATIVE ACTIVITY REPORT



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

Regulatory Services

February 8, 2019

RLA-2019-04

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

LEGISLATIVE ACTIVITY—LEGISLATIVE SESSION UPDATES

This report includes 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 is included in the first report published each month. This report is issued on a weekly basis throughout the legislative season and provides updates on the content of these bills if and when they progress through the legislative process. This report covers 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 February 1, 2019.

BILLS PASSING SECOND CHAMBER

There were no relevant workers compensation-related bills that passed the second chamber within the one-week period ending February 1, 2019.

BILLS PASSING FIRST CHAMBER

The following workers compensation-related bills passed the first chamber within the one-week period ending February 1, 2019.

Mississippi

HB 322 amends *sections 83-23-109* and *83-23-115* of the *Mississippi Insurance Guaranty Association Law* to read as follows:
§ 83-23-109. Definitions.

...
(f) "Covered claim" means an unpaid claim, including one of unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this article applies issued by an insurer, if such insurer becomes an insolvent insurer and ~~(1)(i)~~ the claimant or insured is a resident of this state at the time of the insured event, provided that for entities other than an individual, the residence of a claimant or insured is the state in which its principal place of business is located at the time of the insured event; or ~~(2)(ii)~~ the property from which the claim arises is permanently located in this state. "Covered claim" shall not include any amount awarded as punitive or exemplary damages; or sought as a return of premium under any retrospective rating plan; or due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise and shall preclude recovery thereof from the insured of any insolvent carrier to the extent of the policy limits. "Covered claim" shall not include any claim that would otherwise be a covered claim under this paragraph that has been rejected or denied by any other state guaranty fund based upon that state's statutory exclusions regarding the insured's net worth. "Covered claim" shall not include a claim filed with the association after final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

....
(h) "Member insurer" means any person who ~~(1)(i)~~ writes any kind of insurance to which this article applies under Section 83-23-105, including the exchange of reciprocal or interinsurance contracts, and ~~(2)(ii)~~ is licensed to transact insurance in this state.
...

§ 83-23-115. Powers and duties of association.

(1) The association shall:

(a) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty (30) days after the determination of insolvency, or before the policy expiration date if less than thirty (30) days after the determination, or before the insured replaces the policy or causes its cancellation if he does so within thirty (30) days of the determination. Such obligation shall be satisfied by paying the claimant an amount as follows:

...

In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises. Notwithstanding any other provisions of law to the contrary, a covered claim shall not include a claim filed with the association after final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

...

Montana

SB 29 amends **sections 7-33-4510, 19-18-203, 19-18-601, and 39-71-118** of the Montana Code Annotated 2017 to read:

7-33-4510. Workers compensation for volunteer firefighters — ~~notification if coverage not provided~~ — definitions.

(1) An employer ~~may, on or after October 1, 2022, shall~~ provide workers' compensation coverage as provided in Title 39, chapter 71, to any volunteer firefighter and prior to October 1, 2022, may provide workers' compensation coverage to any volunteer firefighter who is listed on a roster of service.

...

(3) ~~If an~~ An employer that provides workers' compensation coverage as provided in this section, ~~the employer may, shall,~~ upon payment of the filing fee provided for in 7-4-2631(1)(a), file a roster of service with the clerk and recorder in the county in which the employer is located and update the roster of service monthly if necessary to report changes in the number of volunteers on the roster of service. The clerk and recorder shall file the original and replace it with updates whenever necessary. The employer shall maintain the roster of service with the effective date of membership for each volunteer firefighter.

(4) ~~If Prior to October 1, 2022, if~~ an employer does not provide workers' compensation coverage, the employer shall annually notify the employer's volunteer firefighters that coverage is not provided.

...

19-18-203. Use of disability and pension fund.

(1) The fund may not be used for any purpose other than investment, as provided in part 4 of this chapter, and ~~the payment of the following:~~ as provided in subsection (2).

~~(1) a service pension to a member who, by reason of service, has become entitled to a service pension;~~

~~(2) a pension to a member who has become permanently maimed or disabled;~~

~~(3) a benefit or allowance to a member who has suffered a permanent disabling injury;~~

~~(4) a benefit or allowance to a member who has contracted a permanent disabling sickness;~~

~~(5) a benefit, not exceeding \$750, to defray the funeral expenses of a member;~~

~~(6) benefits to the surviving spouse, child, or children of a deceased member as provided in this chapter;~~

~~(7) (2) The fund may be used to pay for benefits allowed under 19-18-601 and for:~~

~~(a) premiums on a blanket policy of insurance covering the members of the fire department and providing for payment of compensation in case of the death of or injury to any such member;~~

~~(b) the return of employee contributions as provided in this chapter; or~~

(c) minor administrative expenses, as defined by the board of trustees formed under 19-18-104 and approved by the governing body that created the fire department relief association. The minor administrative expenses may cover the bond required by 19-18-202.

19-18-601. Benefits ~~the association may provide~~ allowed.

~~Every~~ A fire department relief association may ~~allow to its members benefits for the following causes, as provided by law~~ use the disability and pension fund as provided in 19-18-203 and to pay for the following:

(1) a service pension to a member who, by reason of service, has become entitled to a service pension;

(2) a disability pension to a member who:

(a) has become maimed or disabled for life in line of duty;

~~(3)~~ (b) to a member who has suffered injury in line of duty;

~~(4)~~ (c) to a member who has contracted sickness in line of duty;

~~(5)~~ (3) funeral expenses of a member;

~~(6)~~ (4) pensions to the surviving spouse, or orphan, ~~or orphans~~ of a deceased member; or

(5) workers' compensation coverage for a volunteer firefighter who is a member of the fire department relief association.

39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical technician defined—election of coverage.

(1) As used in this chapter, the term “employee” or “worker” means:

...

(g) a volunteer firefighter as described in 7-33-4109 or 7-33-4510 or a person who provides ambulance services under Title 7, chapter 34, part 1; Determination of premiums and benefits for volunteer firefighters must be made as provided in 39-71-745.

...

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter a volunteer as defined in subsection (2)(b) or a volunteer firefighter as defined in 7-33-4510 prior to mandatory coverage being required on or after October 1, 2022.

...

SB 29 also includes the following language:

Unfunded mandate laws superseded.

The provisions of [this act] expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

Severability.

If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

New Hampshire

HB 337 amends *sections 400-A:15-e, 412:13, and 412:16 of Title XXXVII: Insurance* of the New Hampshire Statutes, to read:

400-A:15-e Consumer Services Program. —

...

III...(c) Nothing in this section shall be construed to waive the confidential and privileged nature of all documents, materials, or other information in possession of the department pursuant to an investigation of a complaint or consumer inquiry, as provided in RSA 400-A:16.

...

412:13. Competitive Market. —

A competitive market is presumed to exist unless the commissioner, after hearing, determines that a reasonable degree of competition does not exist in the market and the commissioner issues a ruling to that effect. Such ruling shall expire no later than ~~one year~~ 2 years after issue unless the commissioner renews the ruling after hearings and a finding as to the continued lack of a reasonable degree of competition. In determining whether a reasonable degree of competition exists, the commissioner shall consider relevant tests of workable competition pertaining to market structure, market performance and market conduct and the practical opportunities available to consumers in the market to acquire pricing and other consumer information and to compare and obtain insurance from competing insurers as further described in RSA 412:14.

412:16. Rate Filings. —

...

II. Every insurer shall file with the commissioner every manual, predictive ~~models~~ model or telematics ~~models~~ model or other ~~models~~ model that ~~pertain~~ pertains to the formulation of rates and/or premiums, minimum premium, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Personal lines filings shall include underwriting rules used by insurers or a group of affiliated insurers to the extent necessary to determine the applicable rate and/or policy premium for an individual insured or applicant. An insurer may file its rates by either filing its final rates or by filing a multiplier and, if applicable, an expense constant adjustment to be applied to prospective loss costs that have been filed by an advisory organization on behalf of the insurer as permitted by RSA 412:23. Every such filing shall state the effective date, and shall indicate the character and extent of the coverage contemplated. Information contained in the underwriting rules that does not pertain to the formulation of rates and/or premiums shall be identified by the filer as proprietary and shall be kept confidential by the department and shall not be subject to the provisions of RSA 91-A.

...

HB 342 amends *section 400-A:37 of Title XXXVII: Insurance* of the New Hampshire Statutes to read as follows:

400-A:37. Examinations.

...

IV-a. Privilege for and Confidentiality of Reports and Ancillary Information.

...

(e) In order to assist in the performance of the commissioner's duties, the commissioner:

...

(4) May disclose the content of an examination report, preliminary examination report or results, or any matter relating thereto relative to workers' compensation audits, to the department of labor, and all such information ~~disclosed and~~ or matter relating thereto in the possession or control of the department of labor shall be confidential by law and privileged, shall not be subject to disclosure under RSA 91-A, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. ~~The commissioner of the department of labor shall agree in writing to hold such information confidential and in a manner consistent with this subparagraph.~~

...

Utah

HB 56 amends *sections 34A-2-206, 34A-2-701, 34A-2-702, and 34A-2-704* of the Utah Workers' Compensation Act as follows:

34A-2-206. Furnishing information to division—Employers' annual report—Rights of division—Examination of employers under oath—Penalties.

...

(4) (a) The division may seek a penalty of not to exceed \$500 for each offense to be recovered in a civil action brought by the commission or the division on behalf of the commission against an employer who:

(i) within a reasonable time to be fixed by the division and after the receipt of written notice signed by the director or the director's designee specifying the information demanded and served by certified mail or personal service, refuses to furnish to the division:

(A) the annual statement required by this section; or

(B) other information as may be required by the division under this section; or

(ii) willfully furnishes a false or untrue statement.

(b) All penalties collected under Subsection (4)(a) shall be paid into:

(i) the Employers' Reinsurance Fund created in Section 34A-2-702; or

(ii) if the commissioner has made the notification described in Subsection 34A-2-702(7), the Uninsured Employers' Fund created in Section 34A-2-704.

34A-2-701. Premium assessment restricted account for safety.

(1) There is created in the General Fund a restricted account known as the "Workplace Safety Account."

(2) (a) An amount equal to 0.25% of the premium income remitted to the state treasurer pursuant to Subsection 59-9-101(2)(c)(ii) shall be deposited in the Workplace Safety Account in the General Fund for use as provided in this section.

(b) Beginning with fiscal year 2008-09, if the balance in the Workplace Safety Account exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to:

(i) the Employers' Reinsurance Fund, created under Subsection 34A-2-702(1); or

(ii) if the commissioner has made the notification described in Subsection 34A-2-702(7), the Uninsured Employers' Fund created in Section 34A-2-704.

...

34A-2-702. Employers' Reinsurance Fund—Injury causing death—Burial expenses—Payments to dependents.

...

(7) (a) After the commissioner determines that all liabilities to be paid from the Employers' Reinsurance Fund have been paid, the commissioner shall notify the Division of Finance.

(b) Upon notification from the commissioner in accordance with Subsection (7)(a), the Division of Finance shall transfer any residual assets in the Employers' Reinsurance Fund into the Uninsured Employers' Fund.

34A-2-704. Uninsured Employers' Fund.

...

2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured Employers' Fund in accordance with this chapter, and Subsection 59-9-101(2), ~~and Subsection 34A-2-213(3).~~

...

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
SC, TN	Amy Quinn	561-893-3812
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This report is informational and is not intended to provide an interpretation of state and federal legislation.