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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

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SB 44 Engrossed DIGEST Gatti  
2016 Regular Session

Present law provides that when an injury has occurred to an employee which is subject to the payment of workers' compensation benefits but such action was caused, in whole or in part, by a party who other than the employer or employee, (commonly referred to as a "third party" but referred to in the statute as "third person") who has a legal liability to pay damages, the employee may file a lawsuit in district court to recover damages for the injury.

Present law provides that when an injury occurs to an employee and a third party is liable, in whole or in part, the workers' compensation insurer or group self-insurance fund may file suit against the third party to recoup the workers' compensation benefits paid to the employee but the employer must notify the employee of the suit against the third party.

Present law provides that when an injury occurs to an employee and a third party is liable, in whole or in part, the employee may file suit against the third party for damages but must notify the workers' compensation insurer or group self-insurance fund when any workers' compensation benefits which have been paid to or on behalf of the injured worker.

Present law provides that if a settlement occurs or a judgment is obtained against the third party and the employee receives funds from the third party, the employer or insurer shall receive a dollar for dollar credit for workers' compensation benefits paid against the full amount paid in settlement or judgement, less attorney fees and costs paid by the employee in prosecution of the third party claim. Present law requires the employee to obtain written approval from the employer or workers' compensation insurer before such settlement or compromise is obtained by the employee.

Present law provides an insurer shall grant its insured a dollar-for-dollar credit for any amount on any claim paid 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.

Proposed law retains present law but provides that the credit shall be used by the insurer in the calculation of the loss experience modifier specifically promulgated by and in accordance with the rules of the National Council on Compensation Insurance (NCCI), to be applied in determining annual premium paid by the employer for workers' compensation insurance.

Proposed law provides that the group self insurance fund shall apply the loss experience modifier authorized by present law applicable to group self insurance funds.

Effective August 1, 2016.

(Adds R.S. 23:1103(D))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Labor and Industrial Relations  
to the original bill

1. Requires workers' compensation insurance companies to use NCCI's loss experience modifier to calculate the amount of dollar-for-dollar credit.
2. Technical amendments.