

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 280

2016 Regular Session

Broadwater

WORKERS COMPENSATION: Provides with respect to group self-insurance funds for workers' compensation

Synopsis of Senate Amendments

1. Changes the requirement to promulgate rules and regulations from the responsibility of the commissioner of the Department of Insurance to the commissioner of the Department of Insurance and the executive director of the Louisiana Workforce Commission jointly.
2. Provides that oversight of any administrative rules or regulations promulgated pursuant to the Administrative Procedure Act shall be conducted by the House Committee on Labor and Industrial Relations and the Senate Committee on Labor and Industrial Relations.

Digest of Bill as Finally Passed by Senate

Present law provides for the establishment and necessary requirements to form a workers' compensation group self-insurance fund.

Present law requires a minimum net-worth and asset-to-liability ratio at all times to maintain a solvent fund.

Present law provides for admissible investment opportunities.

Proposed law defines "hazardous financial condition" to mean that although a fund is not yet insolvent, it is unable to meet obligations in the normal course of business or for existing or reasonably anticipated claims.

Present law provides that although workers' compensation group self-insurance funds are not insurance and not subject to the La. Insurance Code, that the Dept. of Insurance has the authority to examine the affairs, books, transactions, work papers, files, accounts, records, assets, and liabilities to confirm compliance with present law.

Present law further gives the dept. the authority to issue cease and desist orders or suspend or revoke the certificate of authority of any fund not in compliance. Proposed law retains present law and also allows the cease and desist order to include a prohibition on the fund from writing or incurring any new business or renewing prior business.

Proposed law retains present law and further allows the dept. to levy a fine of up to \$4,000 for issues for which a fine was previously levied.

Present law provides that the procedure for noncompliance will be addressed in accordance with the Administrative Procedure Act.

Proposed law allows the fund to submit a corrective action plan to the commissioner for his approval which includes standards, time frames, and other parameters acceptable to the commissioner. Proposed law provides that information from the fund is confidential and not subject to the Public Records Law.

Proposed law gives the dept. the authority to order a group self-insurance fund on a corrective action plan to deal with any compliance or financial issues.

Proposed law allows the commissioner to impose fines, penalties, or revocation of certificate of authority, placement of the fund into administrative supervision, or placement of the fund into conservation, rehabilitation, or liquidation for noncompliance with the corrective action plan.

Present law provides for procedures in the instance of the insolvency of a fund.

Proposed law provides procedures for delinquency proceedings in instances in which a fund is insolvent, operating in a hazardous financial condition, or is in violation of present law. Proposed law further provides for penalties for noncompliance and insolvency including supervision, conservation, rehabilitation, or liquidation.

Proposed law requires that the commissioner, along with the executive director of LWC, promulgate rules and regulations pursuant to the APA.

Proposed law provides that oversight to any APA rules is granted to the House and Senate committees on labor and industrial relations.

Proposed law gives the 19th JDC exclusive jurisdiction to hear any delinquency proceeding against a fund for failure to comply with the corrective action plan.

Proposed law allows the court to issue an injunction to prevent the fund from conducting business, interfering with the ability of the commissioner to conduct business, or to protect any assets in the control of the commissioner.

Proposed law provides for the procedure and requirements for dissolution of a fund. In order to dissolve, a fund must apply for the authority to do so and have no outstanding liabilities or be covered by an irrevocable commitment from a licensed insurer that will provide payment of outstanding liabilities.

Proposed law provides that after the dissolution of the fund and the payment of any liability and indebtedness, the assets shall be distributed to the participants.

Proposed law sets forth an order of priority of receipt of the assets of the fund as follows:

- (1) Costs of administration to the commissioner.
- (2) Amounts payable to the Second Injury Fund.
- (3) Payment of claims of injured workers, beneficiaries, and other insureds to whom the fund owes payment, up to the policy limits.
- (4) Payment of claims by the federal government.
- (5) Payment of compensation owed to employees of the fund, excluding officers.
- (6) Payment of claims for unearned premiums, premium refunds, and claims of creditors.
- (7) Payment of all other claims.

(Amends R.S. 23:1197(D) and (E); Adds R.S. 23:1191(3), 1197(H), 1200.5(D) and (E), and 1200.18)