# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** Senate Bill 1195

**PRINTER'S NO.** 1642

**AMOUNT**

| AMOUNT | FUND |
|---|---|
| $4,000,000 One-Time Transfer | Workmen's Compensation Administration Fund |
| $4,000,000 One-Time Revenue | Uninsured Employers Guaranty Fund |
| $1,000,000-$1,500,000 Savings Annually | Uninsured Employers Guaranty Fund |

**DATE INTRODUCED**

November 22, 2013

**PRIME SPONSOR**

Senator Gordner

**HISTORY OF BILL**

Referred to LABOR AND INDUSTRY, Nov. 22, 2013
Reported as committed, Dec. 3, 2013
First consideration, Dec. 3, 2013
Second consideration, Dec. 4, 2013
Re-referred to APPROPRIATIONS, Dec. 4, 2013
Re-reported as amended, Dec. 9, 2013

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 1195 amends the Workers' Compensation Act, to allow the Department of Labor & Industry to verify that out-of-state employers have secured required workers' compensation insurance or are self-insured under the workers' compensation statutes in other states. If so verified, such employers shall not be considered uninsured employers under the provisions of Article XVI of the Uninsured Employers Guaranty Fund (UEGF or Fund). The bill also provides that if an employee alleges an injury while employed by an out-of-state employer who has not secured workers' compensation insurance, the employee must submit proof in the form of a ruling, decision or notice from another state that the employee has sought and been denied benefits from the other state, prior to initiating a claim against the UEGF. An employee must notify the Fund within 45 days of being advised that the out-of-state employer is uninsured in order to receive compensation from the Fund. A claim petition much be filed within 120 days of the notice.

The bill amends the Act to provide that the Fund may establish lists of at least six designated health care providers who are accessible in each county in specialties relevant to the treatment of work injuries. If such a list is provided, employees must obtain treatment from one of these providers for 90 days from the date of the employee's notice to the Fund. The Fund will not be responsible for payments to a non-designated provider during the 90-day period. This language is consistent with requirements for regular workers' compensation claims.

The bill also requires the employee verify wages paid by providing a check, pay stub, payroll record, tax record, unemployment compensation record, bank statements showing regular and recurring deposits, or other written documentation or testimony of the uninsured employer in order for the Fund to be responsible for wage loss benefits.

The bill clarifies that Fund fees, costs, and settlement payments to claimants are to be included in restitution sought and awards against uninsured employers.

The bill also provides a $4 million transfer from the Workmen's Compensation Administration Fund to the Uninsured Employers Guaranty Fund.

Section 1610 is amended to provide that if the Department receives information that an employer may be failing to meet its obligations under the act, it may require an employer to certify that the required insurance is possessed, or that the business is no longer in operation, or did not employ the claimant in question, or is otherwise exempt from the requirements of the act. If such requested certification is not received within 15 days, the Department may assess an administrative penalty of $200 per day. If an employer does not comply within 45 days, the Department may proceed with stop work orders.

The act is effective immediately. The amendment to section 1603(d) and (e) applies to claims on or after the effective date. The amendments to sections 305, 1601, 1603(b) and 1604 apply retroactively to claims existing but for which compensation has not been paid or awarded.

## FISCAL IMPACT:

A $4 million transfer from the Workmen's Compensation Administration Fund to the Uninsured Employers Guaranty Fund is necessary to insure the Fund's solvency over the next several years and to meet its payment obligations to claimants.

The UEGF was created by Act 147 of 2006. Funding for claimant payments from the Fund are to be provided by assessments on insurers and self-insured employers. Assessments are limited to 0.01% of the total compensation paid by all insurers or self-insured employers during the previous calendar year, and equal about $3.2 million annually. In addition, any fines or restitutions from employers who have failed to provide coverage are deposited in the Fund.

Funding from these sources is not adequate to fund the anticipated eligible claims for payment from the Fund, which are estimated to total over $4.5 million in FY 2013-14. The Department estimates the UEGF could be insolvent by the spring of 2014 without the $4 million transfer from the Workers' Compensation Administration Fund. Thus, there is an immediate need to supplement the original sources of funding with the $4 million transfer. Adequate funds exist in the Workers' Compensation Administration Fund to cover the transfer, which had a budgetary balance of over $24 million, as of December 4, 2013.

Savings can be expected from the additional provisions in the bill that place a limit on the time period in which a claimant may file for benefits provided through the Fund; require proof from the claimant of wages paid by the uninsured employer; and limit medical treatment to the list of designated health care providers. The Department expects that these additional provisions could generate potential savings of $1 - $1.5 million annually.

The bill allows the Department to assess new administrative penalties of $200 per day (30-day maximum) if the employer fails to respond to requested certification of possession of required insurance or legitimate reasons for exemption of the requirements. This could provide additional revenue to the UEGF but the total potential amount which could be generated cannot be estimated by the Department.