

State Corporation Commission 2013 Fiscal Impact Statement

1. **Bill Number:** HB1572

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron:** Webert

3. **Committee:** Commerce and Labor

4. **Title:** Workers' compensation insurance; experience modification factor.

5. **Summary:** Workers'; compensation insurance; experience modification factor... Prohibits the State Corporation Commission from approving an experience rating plan for workers' compensation insurance unless such plan ensures that no experience rating modification or rating is increased as the result of an accident that is the fault of a third party not related to the insured, regardless of whether the party is insured or underinsured.

6. **Budget amendment necessary:** No

7. **Fiscal Impact Estimates:** No fiscal impact on the State Corporation Commission

8. **Fiscal implications:** None on the State Corporation Commission

9. **Specific agency or political subdivisions affected:** State Corporation Commission Bureau of Insurance

10. **Technical amendment necessary:** The State Corporation Commission Bureau of Insurance offered the following comments to the patron of House Bill 1572:

- **Rating** –HB 1572 prohibits including not-at-fault accidents in the insured's experience modification factor or rating. It is not clear whether or not rating means an individual insured's rate (i.e., experience rating or schedule rating) or the class rates charged to every insured. The Bureau advised the patron that If it was his intention to limit the scope to the impact on the individual employer's rate, then HB 1572 should be amended to remove the word "rating."
- **Accident** – As HB 1572 is currently written, "accident" could be an automobile accident; a premises type accident (slip and fall), a products liability accident (defective product), an operations accident (negligence caused by any third party), etc. As written, the Bureau of Insurance would have to interpret the language of the bill to include ANY accident.
- **Fault** –HB 1572 should be clearer on the extent of fault required to qualify as an exempt accident. For example, must it be wholly the fault of a third party or just partly their fault? If it is the intent of the patron to limit the exemption of accidents to those wholly the fault of a third party, HB 1572 should be amended accordingly.

- **Relationship to the insured** – HB 1572 requires that fault belong to a third party “not related to the insured.” The Bureau of Insurance advised the patron that this term would need to be defined. Is any relation to the insured relevant? For example, is a customer “related to the insured” and, if so, when does that customer stop being related to the insured? Is a family member the only qualifying relation?
- 11. Other comments:** It is not known at this time how the Commission would implement the provisions of HB 1572. For example, staff is uncertain if a regulation would be necessary or if the provisions could be implemented by a rule filed by the National Council on Compensation Insurance (NCCI)? HB 1572 would require the filing of an exception by NCCI to the uniform experience rating plan currently approved in Virginia.

If a statistical reporting plan change is necessary, insurers would have to change computer data capture and reporting systems to properly report the losses. If there is no change to the statistical reporting plan, a provision would have to be made for insurer notification to NCCI to ensure removal of the loss from the modification calculation. There should be little impact on workers' compensation premium levels overall since experience rating plans are intended to be premium neutral.

Insureds who have not-at-fault losses in their experience would likely see a reduction in their experience rating modification factor resulting in payment of lower premiums. However, since all losses must be accounted for in the premiums collected, reducing the amount of premium collected from one insured simply shifts the cost to the remainder of the insureds in a classification.

House Bill 1572 is currently assigned to Subcommittee #1 of the Committee on Commerce and Labor.

Date: 01/26/13/V. Tompkins
cc: Secretary of Commerce and Trade