

ASSEMBLY BILL

No. 411

Introduced by Assembly Member Pan

February 14, 2011

An act to amend Section 138.65 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 411, as introduced, Pan. Workers' compensation.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires the administrative director, after consultation with the Insurance Commissioner, to contract with a qualified organization to study the effects of the 2003 and 2004 legislative reforms on insurance rates.

This bill would make a technical, nonsubstantive change in those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 138.65 of the Labor Code is amended to
- 2 read:
- 3 138.65. (a) The administrative director, after consultation with
- 4 the Insurance Commissioner, shall contract with a qualified
- 5 organization to study the effects of the 2003 and 2004 legislative

1 reforms on workers' compensation insurance rates. The study shall
2 do, but not be limited to, all of the following:

3 (1) Identify and quantify the savings generated by the reforms.

4 (2) Review workers' compensation insurance rates to determine
5 the extent to which the reform savings were reflected in rates.
6 When reviewing the rates, consideration shall be given to an
7 insurer's premium revenue, claim costs, and surplus levels.

8 (3) Assess the effect of the reform savings on replenishing
9 surpluses for workers' compensation insurance coverage.

10 (4) Review the effects of the reforms on the workers'
11 compensation insurance rates, marketplace, and competition.

12 (5) Review the adequacy and accuracy of the pure premium rate
13 as recommended by the Workers' Compensation Insurance Bureau
14 and the pure premium rate adopted by the Insurance Commissioner.

15 (b) Insurers shall submit to the contracting organization premium
16 revenue, claims costs, and surplus levels in different timing
17 aggregates as established by the contracting organization, but at
18 least quarterly and annually. The contracting organization may
19 also request additional materials when appropriate. The contracting
20 organization and the commission shall maintain strict
21 confidentiality of the data. An insurer that fails to comply with the
22 reporting requirements of this subdivision is subject to Section
23 11754 of the Insurance Code.

24 (c) The administrative director shall submit to the Governor,
25 the Insurance Commissioner, ~~and~~ the President pro Tempore of
26 the Senate, the Speaker of the Assembly, and the chairs of the
27 appropriate policy committees of the Legislature, a progress report
28 on the study on January 1, 2005, and July 1, 2005, and the final
29 study on or before January 1, 2006. The Governor and the
30 Insurance Commissioner shall review the results of the study and
31 make recommendations as to the appropriateness of regulating
32 insurance rates. If, after reviewing the study, the Governor and the
33 Insurance Commissioner determine that the rates do not
34 appropriately reflect the savings and the timing of the savings
35 associated with the 2003 and 2004 reforms, the Governor and the
36 Insurance Commissioner may submit proposals to the Legislature.
37 The proposals shall take into consideration how rates should be
38 regulated, and by whom. In no event shall the proposals unfairly
39 penalize insurers that have properly reflected the 2003 and 2004

1 reforms in their rates, or can verify that they have not received any
2 cost savings as a result of the reforms.
3 (d) The cost of the study shall be borne by the insurers up to
4 one million dollars (\$1,000,000). The cost of the study shall be
5 allocated to an insurer based on the insurer's proportionate share
6 of the market.

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