

AMENDED IN SENATE MARCH 29, 2012

**SENATE BILL**

**No. 1347**

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**Introduced by Senator Vargas**

February 24, 2012

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An act to add Article 2.2 (commencing with Section 3735) to Chapter 4 of Part 1 of Division 4 of the Labor Code, relating to workers' compensation, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1347, as amended, Vargas. Workers' compensation: insurance.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law generally requires that every employer except the state secure the payment of compensation by being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state, or by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, as specified. Existing law establishes the Uninsured Employers Benefits Trust Fund, a continuously appropriated fund, for the purpose of paying nonadministrative expenses of the workers' compensation program for workers injured while employed by uninsured employers, as specified.

This bill would require the Director of Industrial Relations to designate a nonprofit mutual benefit corporation, defined by the bill as a reporting group, for the purposes of providing information regarding the administration, costs, and policy impacts of legislative and market changes in the administration of workers' compensation programs and benefits to injured employees of public self-insurers. The bill would

establish a board of directors to govern the reporting group, initially consisting of up to ~~7~~ 9 specified members, appointed by the California Association of Joint Powers ~~Authority Authorities~~, the California State Association of Counties (CSAC) Excess Insurance Authority, and other unspecified entities.

~~This bill would require the Director of Industrial Relations to transfer \$2,000,000 by August 1, 2013, and by August 1 of each year thereafter, to the reporting group. By authorizing the Uninsured Employers Benefits Trust Fund to be used for a new purpose, this bill would make an appropriation.~~

*This bill would prohibit the reporting group from engaging in lobbying activities, as specified.* The bill would require the reporting group to annually obtain an audit of its financial affairs from an independent certified public accountant and to deliver a copy of the audit to the Director of Industrial Relations and to each member of the reporting group.

The bill would require that the reporting group not be considered a public agency or an agency of the state for any purpose.

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

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

- 1 SECTION 1. (a) It is the intent of the Legislature in enacting
- 2 this article to designate a nonprofit corporation as a statistical agent
- 3 for public sector self-insurers to provide information and reports
- 4 on public sector workers' compensation benefits payments and
- 5 facilitate the collection and analysis of statistical information from
- 6 the public employer claims administration process.
- 7 (b) The Legislature finds and declares that the collection of
- 8 meaningful and relevant information and data about the experience
- 9 and effects of self-insured public entity workers' compensation
- 10 policies is necessary to the efficient and effective administration
- 11 of a complete system of workers' compensation, as specified by
- 12 Section 4 of Article XIV of the California Constitution, which
- 13 requires, among other things, adequate provisions for the comfort,
- 14 health, safety, and general welfare of any and all workers and those
- 15 dependent upon them for support to the extent of relieving them
- 16 from the consequences of any injury or death, and full provision

1 for adequate insurance coverage against liability to pay or furnish  
2 compensation.

3 SEC. 2. Article 2.2 (commencing with Section 3735) is added  
4 to Chapter 4 of Part 1 of Division 4 of the Labor Code, to read:

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Article 2.2. Self-Insurers Reporting Group

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3735. As used in this article, the following definitions apply:

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10 (a) "Data collection" means collection of information regarding  
11 the administration, costs, and policy impacts of legislative and  
12 market changes in the administration of workers' compensation  
13 programs and benefits to injured employees of public self-insurers.

13

(b) "Director" means the Director of Industrial Relations.

14

15 (c) "Public self-insurer" means a public-entity employer that  
16 has secured the payment of compensation pursuant to subdivision  
17 (c) of Section 3700.

17

18 (d) "Reporting group" means a nonprofit reporting entity  
19 designated by the Director of Industrial Relations to provide  
20 relevant information and data on the costs, benefits, administration,  
21 and experience of public self-insurers of workers' compensation  
22 benefits.

22

23 3735.5. (a) The reporting group shall be a nonprofit mutual  
24 benefit corporation organized for data collection purposes pursuant  
25 to Part 3 (commencing with Section 7110) of Division 2 of Title  
26 1 of the Corporations Code and this article. If any provision of the  
27 applicable state law governing nonprofit mutual benefit  
28 corporations conflicts with any provision of this article, the  
29 provisions of this article shall apply.

29

30 (b) The reporting group shall be governed by a board of directors  
31 of up to ~~seven~~ *nine* voting members *who are all residents of the*  
32 *State of California, have expertise in the field of workers'*  
33 *compensation risk management, and are constituted as follows:*

33

34

(1) One member shall be appointed by the California Association  
34 of Joint Powers Authorities.

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(2) *One member shall be appointed by the California State*  
36 *Association of Counties (CSAC) Excess Insurance Authority.*

37

~~(2)~~

38

39

(3) One member shall be ~~a resident of~~ *from* the State of  
39 California *at large*.

40

~~(3)~~

1 (4) One member shall ~~be from a~~ *represent a city with entity in*  
2 *a city with a population of at least 250,000.*

3 ~~(4)~~

4 (5) One member shall ~~be from a~~ *represent a county with entity*  
5 *in a county with a population of at least 1,000,000.*

6 ~~(5)~~

7 (6) One member shall ~~be from~~ *represent a postsecondary*  
8 *educational institution.*

9 (7) *One member shall represent a school district or county office*  
10 *of education.*

11 ~~(6)~~

12 (8) At the discretion of the board, two additional members who  
13 are representatives of public self-insurers may be appointed, ~~and~~  
14 ~~one employee of a school district or county office of education~~  
15 ~~may be appointed~~, provided that after the additional appointments  
16 the board has an odd number of voting members.

17 ~~(7)~~

18 (9) The Director of Industrial Relations shall hold an ex officio  
19 and nonvoting membership on the board of directors. The director,  
20 or the director's authorized designee, shall not have a fiduciary  
21 duty to the reporting group. The director, or his or her authorized  
22 designee, shall not be counted for purposes of determining a  
23 quorum of the board.

24 (c) The initial appointments for members appointed pursuant  
25 to subdivision (b) shall be either two or three years, to be drawn  
26 by random lot at the first meeting. If the board consists of ~~five~~  
27 ~~seven~~ *members, ~~three~~ four members shall serve two-year terms*  
28 *and ~~two~~ three shall serve three-year terms.* If the board consists  
29 of ~~seven~~ *nine* members, ~~four~~ *five* members shall serve two-year  
30 terms and ~~three~~ *four* shall serve three-year terms. Thereafter, the  
31 members shall be elected by the reporting group. Members elected  
32 by the reporting group shall serve terms of three years each until  
33 the election and qualification of their respective successors.

34 (d) The reporting group shall adopt bylaws to effectuate the  
35 purposes of this article and carry out its duties, including any duties  
36 imposed by the Director of Industrial Relations pursuant to Section  
37 ~~3736.5~~ 3736. The reporting group may discharge its duties either  
38 directly or by contract and may purchase services and insurance  
39 and borrow funds as necessary for the protection of its members  
40 and their employees. The reporting group may receive and disclose

1 confidential information about the claims submitted to public  
2 self-insurers from or to the director and the Department of  
3 Industrial Relations. The reporting group and the director shall  
4 develop and implement protocols and procedures regarding the  
5 receipt, disclosure, and retention of all confidential information.

6 *(e) The Legislature finds, pursuant to Section 19130 of the*  
7 *Government Code, that the duties conducted by the reporting group*  
8 *established pursuant to this article constitute a new state function.*

9 ~~3736. The Director of Industrial Relations shall allocate to the~~  
10 ~~reporting group two million dollars (\$2,000,000) by August 1,~~  
11 ~~2013, and no later than August 1 of each administration year~~  
12 ~~thereafter from the Uninsured Employers Benefits Trust Fund for~~  
13 ~~the purpose of facilitating the reporting group's reporting~~  
14 ~~obligations. After the first allocation of two million dollars~~  
15 ~~(\$2,000,000), annual allocations shall be adjusted for inflation.~~

16 ~~3736.5.~~

17 3736. (a) The reporting group shall serve as the designated  
18 statistical agent for workers' compensation claims of public  
19 self-insurers, and shall provide data collection services to the  
20 Director of Industrial Relations.

21 (b) The reporting group shall provide to the director any  
22 information in its possession that the director may request for the  
23 purpose of calculating assessments levied on public self-insurers.

24 (c) The reporting group may obtain any information from the  
25 workers' compensation information system maintained by the  
26 Division of Workers' Compensation on any public self-insurer or  
27 former public self-insurer to carry out the purposes of this article.

28 (d) The reporting group may analyze and prepare statistical  
29 reports with its employees or it may enter into contracts with  
30 independent contractors for that purpose. All final reports prepared  
31 by the reporting group shall be publicly available and shall be  
32 posted on an Internet Web site to be maintained by the reporting  
33 group.

34 (e) In an annual report to the director, to be delivered to the  
35 director at the time that the director shall specify, the reporting  
36 group shall identify and account for all allocations received from  
37 the director, any revenues received by the reporting group, and all  
38 costs and expenditures made by the reporting group in furtherance  
39 of the purposes of this article.

1     (f) *The reporting group shall not engage in any of the activities*  
2 *of a lobbyist employer, as described in Section 82309.5 of the*  
3 *Government Code.*

4     ~~3737.~~

5     3736.5. The reporting group annually shall obtain an audit of  
6 its financial affairs from an independent certified public accountant  
7 and shall deliver a copy of the audit to the Director of Industrial  
8 Relations and to each member of the reporting group.

9     ~~3737.5.~~

10     3737. The reporting group shall not be considered a public  
11 agency or an agency of the State of California for any purpose.