

AMENDED IN SENATE JUNE 26, 1995  
AMENDED IN ASSEMBLY MAY 8, 1995  
AMENDED IN ASSEMBLY APRIL 17, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1753**

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**Introduced by Assembly Member Knowles**

February 24, 1995

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An act to amend Sections 11752.6 and 11754.5 of, ~~and~~ to repeal Section 11842 of, *and to repeal and add Section 11658 of*, the Insurance Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1753, as amended, Knowles. Workers' compensation: rating organizations.

*Existing law governing workers' compensation insurance provides that a workers' compensation insurance policy may not be issued unless previously approved by the Insurance Commissioner.*

*This bill would repeal this requirement and would instead provide that the commissioner shall require the filing of all workers' compensation policy forms and endorsements. If a policy form or endorsement contains certain specified provisions, the commissioner shall order the filing company to discontinue its use.*

Under existing law, a rating organization must provide all policyholder information, as defined, to an employer insured under a workers' compensation policy. An insurer also has a

duty to provide certain information to its policyholders including, with respect to policies issued or renewed after January 1, 1994, a policyholder's right to request a written report as specified.

This bill would delete a policyholder's right to request that written report, as specified.

Existing law, with respect to workers' compensation, provides for court review of any finding, determination, rule, ruling, or order made by the Insurance Commissioner and specifies filing times for that review.

This bill would delete the specification as to filing times.

Existing law authorizes the State Compensation Insurance Fund at any time after due notice, to cancel any policy upon a pro rata basis of premium repayment.

This bill would delete that provision.

Existing law requires all licensed rating organizations to establish a policyholder ombudsman, and to provide staff and other necessary resources to the ombudsman.

This bill would require *a rating organization to appoint an ombudsman in consultation with the commissioner* ~~to appoint the ombudsman~~, and would also require rating organizations to provide compensation for the ombudsman and necessary staff. Because a willful violation of these provisions is a misdemeanor, this bill creates a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. *Section 11658 of the Insurance Code is*  
2 *repealed.*

3 ~~11658. A workmen's compensation policy shall not be~~  
4 ~~issued by any insurer unless it is previously approved, as~~



1 ~~to substance and form, by the commissioner. Before~~  
2 ~~approving such a policy, the commissioner shall consult~~  
3 ~~concerning it with the Industrial Accident Commission.~~

4 *SEC. 2. Section 11658 is added to the Insurance Code,*  
5 *to read:*

6 *11658. (a) The commissioner shall require the filing*  
7 *of all workers' compensation policy forms and*  
8 *endorsements issued or delivered by a company*  
9 *transacting workers' compensation insurance in this*  
10 *state.*

11 *(b) If the commissioner finds, from an examination of*  
12 *a filed policy form or endorsement, that one or more of*  
13 *the following provisions apply, the commissioner shall*  
14 *order the company filing the form or endorsement to*  
15 *discontinue its use:*

16 *(1) The form or endorsement violates a provision of*  
17 *this code.*

18 *(2) The form or endorsement contains a provision that*  
19 *is inconsistent, ambiguous, or misleading.*

20 *(3) The form or endorsement contains an exception or*  
21 *condition that will unreasonably or deceptively affect a*  
22 *risk that is purported to be covered by the policy.*

23 *(c) This section does not require a company*  
24 *transacting workers' compensation insurance to obtain*  
25 *approval of a form or endorsement before it is issued, and*  
26 *does not affect the validity of a policy that has been issued*  
27 *and is found to be in conflict with this section.*

28 *SEC. 3. Section 11752.6 of the Insurance Code is*  
29 *amended to read:*

30 *11752.6. (a) A licensed rating organization shall*  
31 *make available, in writing, to an employer insured under*  
32 *a workers' compensation policy, all policyholder*  
33 *information contained in its records upon request of the*  
34 *employer and after notice to the employer's insurer.*

35 *(b) As used in this section, "policyholder information"*  
36 *means all information relating to the employer's loss*  
37 *experience, claims, classification assignments, and policy*  
38 *contracts. Policyholder information also includes*  
39 *information relating to rating plans, rating systems,*



1 manual rules, and any other information that impacts the  
2 policyholder's pure premium rates.

3 (c) If a licensed rating organization rejects an  
4 employer's request for policyholder information, the  
5 rating organization shall notify the employer in writing of  
6 the reasons for the rejection. An employer whose request  
7 has been rejected in whole or in part may appeal to the  
8 commissioner in accordance with Section 11753.1. If the  
9 commissioner finds that the reasons for the rejection are  
10 not justified, he or she may order the rating organization  
11 to furnish that information to the employer.

12 (d) No licensed rating organization or member of the  
13 organization, or member of a committee of a licensed  
14 rating organization when acting in its capacity as a  
15 member of the committee, or officer or employee of a  
16 licensed rating organization, when acting within the  
17 scope of his or her employment, is liable to any person for  
18 injury, personal or otherwise, or damages caused or  
19 alleged to have been caused, either directly or indirectly,  
20 by the disclosure of information to an employer under this  
21 section or for the accuracy or completeness of the  
22 information disclosed.

23 (e) This section does not imply the existence of  
24 liability in circumstances not defined in this section, nor  
25 does it imply a legislative recognition that, except for  
26 enactment of this section, a liability has existed or would  
27 exist in the circumstances stated in this section.

28 (f) This section does not limit any authority of a  
29 licensed rating organization to disclose information  
30 contained in its records to others.

31 (g) There shall be established in all licensed rating  
32 organizations a policyholder ombudsman. The  
33 policyholder ombudsman shall be appointed by *the*  
34 *rating organization on consultation with* the  
35 commissioner. The policyholder ombudsman shall be a  
36 person with sufficient knowledge of the workers'  
37 compensation ratemaking process to provide information  
38 and assistance to policyholders in obtaining and  
39 evaluating the information provided in Article 2  
40 (commencing with Section 11730) and this article, and in



1 Sections 3761 and 3762 of the Labor Code. Every rating  
2 organization licensed in this state shall provide  
3 compensation for the ombudsman and necessary staff and  
4 other necessary resources to allow the ombudsman to  
5 provide prompt and complete service to workers'  
6 compensation policyholders of this state. The  
7 policyholder ombudsman may ~~represent~~ *advise* the  
8 policyholder in any dispute with insurers or the rating  
9 organization that the ombudsman serves, or on appeal to  
10 the commissioner as provided in Section 11737.

11 (h) For all policies of insurance issued or renewed on  
12 or after January 1, 1994, the insurer shall advise the  
13 policyholder in writing of the following:

14 (1) The policyholder's right to contact the  
15 policyholder ombudsman to assist in obtaining and  
16 evaluating information relating to rates, together with  
17 the telephone number and address of the ombudsman, *as*  
18 *well as the policyholder's right to contact the department*  
19 *to resolve a dispute with an insurer, as provided in this*  
20 *section and Section 11737.*

21 (2) If a participating policy, that upon payment or  
22 nonpayment of a dividend the policyholder shall be  
23 provided a written explanation, in clear and  
24 understandable language, setting forth the basis of the  
25 calculation and expressing any dividend in both dollar  
26 amount and as a percentage of earned premium under  
27 the policy.

28 (3) The date when the insurer is required to file the  
29 first unit statistical report with the licensed rating  
30 organization designated by the commissioner.

31 ~~SEC. 2.~~

32 *SEC. 4.* Section 11754.5 of the Insurance Code is  
33 amended to read:

34 11754.5. Any finding, determination, rule, ruling, or  
35 order made by the commissioner under this article or  
36 Article 2 (commencing with Section 11730) shall be  
37 subject to review by the courts of the state pursuant to  
38 Section 1094.5 of the Code of Civil Procedure.

39 ~~SEC. 3.~~



1 SEC. 5. Section 11842 of the Insurance Code is  
2 repealed.

3 ~~SEC. 4.~~

4 SEC. 6. No reimbursement is required by this act  
5 pursuant to Section 6 of Article XIII B of the California  
6 Constitution because the only costs that may be incurred  
7 by a local agency or school district will be incurred  
8 because this act creates a new crime or infraction,  
9 eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section  
11 17556 of the Government Code, or changes the definition  
12 of a crime within the meaning of Section 6 of Article  
13 XIII B of the California Constitution.

14 Notwithstanding Section 17580 of the Government  
15 Code, unless otherwise specified, the provisions of this act  
16 shall become operative on the same date that the act  
17 takes effect pursuant to the California Constitution.

