

Assembly Bill No. 1753

Passed the Assembly September 15, 1995

Chief Clerk of the Assembly

Passed the Senate September 14, 1995

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1995, at ____ o'clock __M.

Private Secretary of the Governor



CHAPTER ____

An act to amend Sections 11657, 11660, 11752.6, and 11754.5 of, 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, Knowles. Workers' compensation.

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 for workers' compensation insurance policies, other than limited policies. The bill would instead provide that a workers' compensation insurance policy or endorsement shall not be issued by an insurer unless a copy of the form or endorsement is filed with the rating organization, and the commissioner either gives written approval to the form or endorsement or 30 days expire from the date the form or endorsement is received by the commissioner from the rating organization, without notice to the insurer, as specified. An insurer would also be prohibited from issuing a workers' compensation insurance policy or endorsement if notified by the commissioner that the filed form or endorsement does not comply with requirements of law.

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 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.

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.

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 for certain costs no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 11657 of the Insurance Code is amended to read:

11657. Subject to the provisions of Sections 11659 and 11660, limited workers' compensation policies may be issued insuring either the whole or any part of the liability of any employer for compensation, provided that the policy is previously approved, as to substance and form, by the commissioner. Subject to those provisions, the policy may restrict or limit the insurance in any manner whatsoever.

SEC. 2. Section 11658 of the Insurance Code is repealed.

SEC. 3. Section 11658 is added to the Insurance Code, to read:

11658. (a) A workers' compensation insurance policy or endorsement shall not be issued by an insurer to any person in this state unless the insurer files a copy of the form or endorsement with the rating organization pursuant to subdivision (e) of Section 11750.3 and 30 days have expired from the date the form or endorsement is received by the commissioner from the rating organization without notice from the commissioner,



unless the commissioner gives written approval of the form or endorsement prior to that time.

(b) If the commissioner notifies the insurer that the filed form or endorsement does not comply with the requirements of law, specifying the reasons for his or her opinion, it is unlawful for the insurer to issue any policy or endorsement in that form.

(c) The withdrawal of a policy form or endorsement by the commissioner pursuant to this section shall not affect the status of the policyholder as having secured payment for compensation or affect the substitution of the insurer for the policyholder in workers' compensation proceedings as set forth in the provisions of Chapter 4 (commencing with Section 3700) of Part 1 of Division 4 of the Labor Code during the period of time in which the policy form or endorsement was in effect.

(d) This section shall not apply to limited policies submitted for approval to the commissioner pursuant to Section 11657.

SEC. 4. Section 11660 of the Insurance Code is amended to read:

11660. Failure to observe the requirements of Sections 11657 and 11659 shall render a policy issued under Section 11657, and not complying therewith, unlimited.

SEC. 5. Section 11752.6 of the Insurance Code is amended to read:

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

(b) As used in this section, "policyholder information" means all information relating to the employer's loss experience, claims, classification assignments, and policy contracts. Policyholder information also includes information relating to rating plans, rating systems, manual rules, and any other information that impacts the policyholder's pure premium rates.



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

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

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

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

(g) There shall be established in all licensed rating organizations a policyholder ombudsman. The policyholder ombudsman shall be a person with sufficient knowledge of the workers' compensation ratemaking process to provide information and assistance to policyholders in obtaining and evaluating the information provided in Article 2 (commencing with Section 11730) and this article, and in Sections 3761 and 3762 of the Labor Code. Every rating organization licensed in this state shall provide compensation for the ombudsman and necessary staff and other necessary resources to allow the ombudsman to provide prompt



and complete service to workers' compensation policyholders of this state. The policyholder ombudsman may advise the policyholder in any dispute with insurers or the rating organization that the ombudsman serves, or on appeal to the commissioner as provided in Section 11737.

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

(1) The policyholder's right to request a written report containing the information set forth in this section from the licensed rating organization of which the insurer is a member, and the policyholder's right to contact the policyholder ombudsman to assist in obtaining and evaluating information relating to rates, together with the telephone number and address of the ombudsman, as well as the policyholder's right to contact the department to resolve a dispute with an insurer, as provided in this section and Section 11737.

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

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

SEC. 6. Section 11754.5 of the Insurance Code is amended to read:

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

SEC. 7. Section 11842 of the Insurance Code is repealed.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California



Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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



Approved _____, 1995

Governor

