

Introduced by Senator VargasFebruary 24, 2012

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 introduced, 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 specified members, appointed by the California Joint Powers 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.

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. 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
17 for adequate insurance coverage against liability to pay or furnish
18 compensation.

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

1 Article 2.2. Self-Insurers Reporting Group

2
3 3735. As used in this article, the following definitions apply:

4 (a) “Data collection” means collection of information regarding
5 the administration, costs, and policy impacts of legislative and
6 market changes in the administration of workers’ compensation
7 programs and benefits to injured employees of public self-insurers.

8 (b) “Director” means the Director of Industrial Relations.

9 (c) “Public self-insurer” means a public-entity employer that
10 has secured the payment of compensation pursuant to subdivision
11 (c) of Section 3700.

12 (d) “Reporting group” means a nonprofit reporting entity
13 designated by the Director of Industrial Relations to provide
14 relevant information and data on the costs, benefits, administration,
15 and experience of public self-insurers of workers’ compensation
16 benefits.

17 3735.5. (a) The reporting group shall be a nonprofit mutual
18 benefit corporation organized for data collection purposes pursuant
19 to Part 3 (commencing with Section 7110) of Division 2 of Title
20 1 of the Corporations Code and this article. If any provision of the
21 applicable state law governing nonprofit mutual benefit
22 corporations conflicts with any provision of this article, the
23 provisions of this article shall apply.

24 (b) The reporting group shall be governed by a board of directors
25 of up to seven voting members constituted as follows:

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

28 (2) One member shall be a resident of the State of California.

29 (3) One member shall be from a city with a population of at
30 least 250,000.

31 (4) One member shall be from a county with a population of at
32 least 1,000,000.

33 (5) One member shall be from a postsecondary educational
34 institution.

35 (6) At the discretion of the board, two additional members who
36 are representatives of public self-insurers may be appointed, and
37 one employee of a school district or county office of education
38 may be appointed, provided that after the additional appointments
39 the board has an odd number of voting members.

1 (7) The Director of Industrial Relations shall hold an ex officio
2 and nonvoting membership on the board of directors. The director,
3 or the director's authorized designee, shall not have a fiduciary
4 duty to the reporting group. The director, or his or her authorized
5 designee, shall not be counted for purposes of determining a
6 quorum of the board.

7 (c) The initial appointments for members appointed pursuant
8 to subdivision (b) shall be either two or three years, to be drawn
9 by random lot at the first meeting. If the board consists of five
10 members, three members shall serve two-year terms and two shall
11 serve three-year terms. If the board consists of seven members,
12 four members shall serve two-year terms and three shall serve
13 three-year terms. Thereafter, the members shall be elected by the
14 reporting group. Members elected by the reporting group shall
15 serve terms of three years each until the election and qualification
16 of their respective successors.

17 (d) The reporting group shall adopt bylaws to effectuate the
18 purposes of this article and carry out its duties, including any duties
19 imposed by the Director of Industrial Relations pursuant to Section
20 3736.5. The reporting group may discharge its duties either directly
21 or by contract and may purchase services and insurance and borrow
22 funds as necessary for the protection of its members and their
23 employees. The reporting group may receive and disclose
24 confidential information about the claims submitted to public
25 self-insurers from or to the director and the Department of
26 Industrial Relations. The reporting group and the director shall
27 develop and implement protocols and procedures regarding the
28 receipt, disclosure, and retention of all confidential information.

29 3736. The Director of Industrial Relations shall allocate to the
30 reporting group two million dollars (\$2,000,000) by August 1,
31 2013, and no later than August 1 of each administration year
32 thereafter from the Uninsured Employers Benefits Trust Fund for
33 the purpose of facilitating the reporting group's reporting
34 obligations. After the first allocation of two million dollars
35 (\$2,000,000), annual allocations shall be adjusted for inflation.

36 3736.5. (a) The reporting group shall serve as the designated
37 statistical agent for workers' compensation claims of public
38 self-insurers, and shall provide data collection services to the
39 Director of Industrial Relations.

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

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

8 (d) The reporting group may analyze and prepare statistical
9 reports with its employees or it may enter into contracts with
10 independent contractors for that purpose. All final reports prepared
11 by the reporting group shall be publicly available and shall be
12 posted on an Internet Web site to be maintained by the reporting
13 group.

14 (e) In an annual report to the director, to be delivered to the
15 director at the time that the director shall specify, the reporting
16 group shall identify and account for all allocations received from
17 the director, any revenues received by the reporting group, and all
18 costs and expenditures made by the reporting group in furtherance
19 of the purposes of this article.

20 3737. The reporting group annually shall obtain an audit of its
21 financial affairs from an independent certified public accountant
22 and shall deliver a copy of the audit to the Director of Industrial
23 Relations and to each member of the reporting group.

24 3737.5. The reporting group shall not be considered a public
25 agency or an agency of the State of California for any purpose.