Senate

General Assembly

File No. 320

January Session, 2001

Senate Bill No. 1196

Senate, April 17, 2001

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING PENALTIES FOR LATE WORKERS' COMPENSATION PAYMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 31-303 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Payments agreed to under a voluntary agreement shall commence on or before the tenth day from the date of agreement. Payments due under an award shall commence on or before the tenth day from the date of such award. Payments due from the Second Injury Fund shall be payable on or before the tenth business day after receipt of a fully executed agreement.

(b) Any employer [who] that fails to pay within the prescribed time limitations of this section shall pay a penalty for each late payment. [,] If the payment is due weekly or biweekly or on some other periodic basis, the employer shall pay a penalty in the amount of twenty per cent of such payment, in addition to any other interest or penalty imposed pursuant to the provisions of this chapter. If the payment is a lump sum payment due under a voluntary agreement or the terms of an award, the employer shall pay a penalty in the amount of five per cent above the prevailing prime interest rate listed in the first federal reserve bulletin published for the calendar year in which the payment is to be made, calculated daily from the date the payment should have been paid until the date of payment, in addition to any other interest or penalty imposed pursuant to the provisions of this chapter.

Sec. 2. Subsection (a) of section 31-354 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) (1) There shall be a fund to be known as the Second Injury Fund. Each employer, other than the state, shall, [within] not later than thirty days after notice given by the State Treasurer, pay to the State Treasurer for the use of the state a sum in payment of [his] the employer's liability under this chapter which shall be the special assessment premium surcharge and shall be assessed in accordance with subsection (f) of section 31-349, sections 31-349g, 31-349h and 31-349i, this section, section 31-354b and sections 8 and 9 of public act 96-242*. Such sum shall be an amount sufficient to [(1)] (A) pay the debt service on state revenue bond obligations authorized to be issued under and for the purposes set forth in section 31-354b including reserve and covenant coverage requirements, [(2)] (B) provide for costs and expenses of operating the Second Injury Fund, and [(3)] (C) pay Second Injury Fund stipulations on claims settled by the custodian or other benefits payable out of the Second Injury Fund and not funded through state revenue bond obligations and shall be determined in accordance with the regulations adopted pursuant to the provisions of section 31-349g. The custodian shall establish a factor for the annual special assessment premium surcharge that caps such surcharge for the fiscal years ending June 30, 1996, 1997 and 1998. In determining such factor the custodian shall consider the funding mechanism authorized by subsection (f) of section 31-349, sections 31-349g, 31-349h and 31-349i, this section, section 31-354b and sections 8 and 9 of public act 96-242*, recognize that an acceptable level of employer assessment is important to the vitality of the economy of the state and nevertheless shall assure provision of services to injured workers that enhances their ability to return to work and improve their quality of life. In any event, such factor shall not exceed, with respect to insured employers, a rate of fifteen per cent on the standard premiums with respect to workers' compensation and employers' liability policies and, with respect to self-insured employers, a comparable percentage limitation representing their pro rata share of any special assessment premium surcharge. Any employer **[**who**]** that fails to pay in accordance with such regulations shall pay interest to the State Treasurer on the sum at the rate of fifteen per cent per annum from the date the sum should have been paid until the date of payment. The State Treasurer shall notify each employer of the penalty provision with the notice of assessment.

(2) Effective July 1, 1993, whenever the assessment is levied, the State Treasurer shall pay to the fund, on behalf of the state, a sum not to exceed the total amount of money expended by the fund on behalf of state employees during the period following the last assessment. The sums received shall be accounted for separately and apart from all other state moneys and the faith and credit of the state of Connecticut is pledged for their safekeeping.

(3) The State Treasurer shall be the custodian of the fund and all disbursements from the fund shall be made by **[**him or his**]** the State Treasurer or the State Treasurer's deputies. The moneys of the fund shall be invested by **[**him**]** the State Treasurer in accordance with applicable law and section 8 of public act 96-242*. Interest, income and dividends from the investments shall be credited to the fund.

(4) (A) Each employer, each private insurance carrier acting on

behalf of any employer and each interlocal risk management agency acting on behalf of any employer shall annually, on or before April first, report to the State Treasurer, in the form prescribed by the State Treasurer, the amount of money expended by or on behalf of the employer in payments for the preceding calendar year.

(B) Each private insurance carrier and each interlocal risk management agency shall submit annually, on or before April first, to the State Treasurer, in the form prescribed by the State Treasurer, a report of the total standard earned premium collected in the preceding calendar year and a report of the projected total standard earned premium for the current calendar year.

(5) The fund shall be used to provide the benefits set forth in section 31-306 for adjustments in the compensation rate and payment of certain death benefits, in section 31-307b for adjustments where there are relapses after a return to work, in section 31-307c for totally disabled persons injured prior to October 1, 1953, in section 31-349 for disabled or handicapped employees and in section 31-355 for the payment of benefits due injured employees whose employers or insurance carriers have failed to pay the compensation, and medical expenses required by this chapter, or any other compensation payable from the fund as may be required by any provision contained in this chapter or any other statute and to reimburse employers or insurance carriers for payments made under **[**subsection (b)**]** subsections (b) and (c) of section 31-307a.

(6) The assessment required by this section is a condition of doing business in this state and failure to pay the assessment, when due, shall result in the denial of the privilege of doing business in this state or to self-insure under section 31-284.

(7) Any administrative or other costs or expenses incurred by the State Treasurer in connection with carrying out the provisions of this part, including the hiring of necessary employees, shall be paid from

the fund.

<u>(8)</u> The State Treasurer may adopt regulations, in accordance with the provisions of chapter 54, prescribing the practices, policies and procedures to be followed in the administration of the Second Injury Fund.

LAB *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:	Indeterminate Savings (Second Injury Fund, Various Funds)
Affected Agencies:	State Treasurer – Second Injury Fund, Department of Administrative Services - Workers' Compensation Claims, Various State Agencies
Municipal Impact:	Indeterminate Savings

Explanation

State and Municipal Impact:

This bill could result in savings to the state, the state's Second Injury Fund, and to municipalities, that cannot be determined at this time. The bill reduces the penalty for failure to make timely lump sum workers' compensation payments, and clarifies that the 20% penalty provision established by PA 93-228 applies only to periodic payments and not to lump sum payments.

Currently, a lump sum payment only one day late would incur a 20% penalty. The bill establishes the penalty for late lump sum payments as 5% above the prevailing prime interest rate calculated daily from the date the payment should have been made. The current prime interest rate is 9.5%. Therefore the penalty for payments due in 2001 would be 14.5%.

Since the penalty would be calculated on a daily basis (compounded on a daily basis) 14.5% results in an effective annual rate of 15.6%. If next year's prime interest rate stays at the current rate, then the payment would have to be 459 days late before there would be a penalty of 20%.

Savings would result to the extent that the state, the Second Injury Fund, municipalities and their insurers are not timely in making lump sum workers' compensation payments. Information from the state and municipalities is not available at this time, but the Second Injury Fund provided information indicating that they paid penalties of over $65,000 in 2000. None of these payments were more than a week late. Therefore they would have saved virtually all of these penalties.

OLR Bill Analysis
SB 1196

AN ACT CONCERNING PENALTIES FOR LATE WORKERS' COMPENSATION PAYMENTS.

SUMMARY:
This bill eliminates the flat 20% penalty on employers that make late lump sum workers' compensation payments and instead ties the penalty to the lateness of the payment. Under the bill, the later the payment, the higher the penalty.

The bill also makes technical changes.

EFFECTIVE DATE October 1, 2001

PENALTY FOR LATE LUMP SUM PAYMENTS

Under the bill, the penalty for a late lump sum payment is 5% above the prevailing prime interest rate, calculated daily from the date the payment should have been made, plus any other penalties already imposed by law.

The prevailing prime interest rate is the prime interest rate listed in the first Federal Reserve bulletin published for the calendar year in which the payment is to be made (for 2001, 9.5%).

The change in the penalty for late lump sum payments either increases or decreases the penalty depending on the lateness of the payment. For example, under current law, the penalty for a $10,000 payment that is due October 15, 2001, but not paid until October 16, 2001, is $2,000. Under the bill, the penalty would be $3.97 on October 16, 2001. If the employer continues to not make the payment, the penalty would eventually exceed $2,000.

BACKGROUND

Late Payments

The law imposes a penalty on employers that do not make workers' compensation payments within 10 days after a voluntary agreement or award.

Penalties

The workers' compensation law provides a number of penalties for violations including a $250 fine for an employer's willful failure to comply with a workers' compensation law and a civil penalty of up to $500 for an employer or insurer, who through fault or neglect, unduly delays a workers' compensation payment or adjustment.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Report
Yea 14 Nay 0