



# Senate

General Assembly

**File No. 275**

*January Session, 2005*

Substitute Senate Bill No. 1336

*Senate, April 12, 2005*

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 substitute bill ought to pass.

***AN ACT CONCERNING REVISIONS TO STATUTES GOVERNING THE SECOND INJURY FUND.***

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

1 Section 1. Section 31-299b of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2006*):

3 If an employee suffers an injury or disease for which compensation  
4 is found by the commissioner to be payable according to the  
5 provisions of this chapter, the employer who last employed the  
6 claimant prior to the filing of the claim, or the employer's insurer, shall  
7 be initially liable for the payment of such compensation. The  
8 commissioner shall, within a reasonable period of time after issuing an  
9 award, on the basis of the record of the hearing, determine whether  
10 prior employers, or their insurers, are liable for a portion of such  
11 compensation and the extent of their liability. If prior employers are  
12 found to be so liable, the commissioner shall order such employers or

13 their insurers to reimburse the initially liable employer or insurer  
14 according to the proportion of their liability. Reimbursement shall be  
15 made within ten days of the commissioner's order with interest, from  
16 the date of the initial payment, at twelve per cent per annum. If no  
17 appeal from the commissioner's order is taken by any employer or  
18 insurer within twenty days, the order shall be final and may be  
19 enforced in the same manner as a judgment of the Superior Court. For  
20 purposes of this section, the Second Injury Fund shall not be deemed  
21 an employer or an insurer and shall be exempt from any liability. The  
22 amount of any compensation for which the Second Injury Fund would  
23 be liable except for the exemption provided under this section shall be  
24 reallocated among any other employers, or their insurers, who are  
25 liable for such compensation according to a ratio, the numerator of  
26 which is the percentage of the total compensation for which an  
27 employer, or its insurer, is liable and the denominator of which is the  
28 total percentage of liability of all employers, or their insurers,  
29 excluding the percentage that would have been attributable to the  
30 Second Injury Fund, for such compensation.

31 Sec. 2. Subdivision (2) of subsection (a) of section 31-306 of the  
32 general statutes is repealed and the following is substituted in lieu  
33 thereof (*Effective July 1, 2006*):

34 (2) To those wholly dependent upon the deceased employee at the  
35 date of the deceased employee's injury, a weekly compensation equal  
36 to seventy-five per cent of the average weekly earnings of the deceased  
37 calculated pursuant to section 31-310, as amended by this act, after  
38 such earnings have been reduced by any deduction for federal or state  
39 taxes, or both, and for the federal Insurance Contributions Act made  
40 from such employee's total wages received during the period of  
41 calculation of the employee's average weekly wage pursuant to said  
42 section 31-310, as amended by this act, as of the date of the injury but  
43 not more than the maximum weekly compensation rate set forth in  
44 section 31-309 for the year in which the injury occurred or less than  
45 twenty dollars weekly. (A) The weekly compensation rate of each  
46 dependent entitled to receive compensation under this section as a

47 result of death arising from a compensable injury occurring on or after  
48 October 1, 1977, shall be adjusted annually as provided in this  
49 subdivision as of the following October first, and each subsequent  
50 October first, to provide the dependent with a cost-of-living  
51 adjustment in the dependent's weekly compensation rate as  
52 determined as of the date of the injury under section 31-309. If the  
53 maximum weekly compensation rate, as determined under the  
54 provisions of said section 31-309, to be effective as of any October first  
55 following the date of the injury, is greater than the maximum weekly  
56 compensation rate prevailing at the date of the injury, the weekly  
57 compensation rate which the injured employee was entitled to receive  
58 at the date of the injury or October 1, 1990, whichever is later, shall be  
59 increased by the percentage of the increase in the maximum weekly  
60 compensation rate required by the provisions of said section 31-309  
61 from the date of the injury or October 1, 1990, whichever is later, to  
62 such October first. The cost-of-living increases provided under this  
63 subdivision shall be paid by the employer without any order or award  
64 from the commissioner. The adjustments shall apply to each payment  
65 made in the next succeeding twelve-month period commencing with  
66 the October first next succeeding the date of the injury. With respect to  
67 any dependent receiving benefits on October 1, 1997, with respect to  
68 any injury occurring on or after July 1, 1993, and before October 1,  
69 1997, such benefit shall be recalculated to October 1, 1997, as if such  
70 benefits had been subject to recalculation annually under this  
71 subparagraph. The difference between the amount of any benefits that  
72 would have been paid to such dependent if such benefits had been  
73 subject to such recalculation and the actual amount of benefits paid  
74 during the period between such injury and such recalculation shall be  
75 paid to the dependent not later than December 1, 1997, in a lump-sum  
76 payment. The employer or its insurer shall be reimbursed by the  
77 Second Injury Fund, as provided in section 31-354, for adjustments,  
78 including lump-sum payments, payable under this subparagraph for  
79 deaths from compensable injuries occurring on or after July 1, 1993,  
80 and before October 1, 1997, upon presentation of any vouchers and  
81 information that the Treasurer shall require. No claim for payment of

82 retroactive benefits may be made to the Second Injury Fund more than  
83 two years after the date on which the employer or its insurer paid such  
84 benefits in accordance with this subparagraph. (B) The weekly  
85 compensation rate of each dependent entitled to receive compensation  
86 under this section as a result of death arising from a compensable  
87 injury occurring on or before September 30, 1977, shall be adjusted as  
88 of October 1, 1977, and October 1, 1980, and thereafter, as provided in  
89 this subdivision to provide the dependent with partial cost-of-living  
90 adjustments in the dependent's weekly compensation rate. As of  
91 October 1, 1977, the weekly compensation rate paid prior to October 1,  
92 1977, to the dependent shall be increased by twenty-five per cent. The  
93 partial cost-of-living adjustment provided under this subdivision shall  
94 be paid by the employer without any order or award from the  
95 commissioner. In addition, on each October first, the weekly  
96 compensation rate of each dependent as of October 1, 1990, shall be  
97 increased by the percentage of the increase in the maximum  
98 compensation rate over the maximum compensation rate of October 1,  
99 1990, as determined under the provisions of section 31-309 existing on  
100 October 1, 1977. The cost of the adjustments shall be paid by the  
101 employer or its insurance carrier who shall be reimbursed for such cost  
102 from the Second Injury Fund as provided in section 31-354 upon  
103 presentation of any vouchers and information that the Treasurer shall  
104 require. No claim for payment of retroactive benefits may be made to  
105 the Second Injury Fund more than two years after the date on which  
106 the employer or its insurance carrier paid such benefits in accordance  
107 with this subparagraph.

108 Sec. 3. Subsection (c) of section 31-306 of the general statutes is  
109 repealed and the following is substituted in lieu thereof (*Effective July*  
110 *1, 2006*):

111 (c) (1) The dependents of any deceased employee who was injured  
112 between January 1, 1952, and December 31, 1973, and who  
113 subsequently dies, shall be paid compensation on account of the death  
114 retroactively to the date of the employee's death. The cost of the  
115 payment or adjustment shall be paid by the employer or its insurance

116 carrier who shall be reimbursed for such cost from the Second Injury  
117 Fund as provided in section 31-354 upon presentation of any vouchers  
118 and information that the Treasurer shall require. No claim for payment  
119 of retroactive benefits may be made to the Second Injury Fund more  
120 than two years after the date on which the employer or its insurance  
121 carrier paid such benefits in accordance with this subdivision.

122 (2) The dependents of any deceased employee who was injured  
123 before January 1, 1952, and who died on or before October 1, 1991,  
124 shall be paid compensation on account of the death retroactively to the  
125 date of the employee's death. The cost of the payment or adjustment  
126 shall be paid by the employer or its insurance carrier who shall be  
127 reimbursed for such cost from the Second Injury Fund as provided in  
128 section 31-354 upon presentation of any vouchers and information that  
129 the Treasurer shall require. No claim for payment of retroactive  
130 benefits may be made to the Second Injury Fund more than two years  
131 after the date on which the employer or its insurance carrier paid such  
132 benefits in accordance with this subdivision.

133 Sec. 4. Subsection (d) of section 31-306 of the general statutes is  
134 repealed and the following is substituted in lieu thereof (*Effective July*  
135 *1, 2006*):

136 (d) The dependents of any deceased employee who was injured in  
137 an accident arising out of and in the course of employment before  
138 January 1, 1952, and who died, as a result of those injuries, after  
139 October 1, 1991, shall be paid compensation, under the provisions of  
140 this section, effective as of the date of death of any such employee.  
141 Notwithstanding the provisions of subsection (a) of this section, the  
142 weekly compensation rate for such dependents shall equal the amount  
143 of compensation the injured employee was receiving prior to death  
144 pursuant to section 31-307. Such weekly compensation rate shall  
145 hereafter be adjusted in accordance with the provisions of subsection  
146 (a) of this section. The cost of such payment or adjustment shall be  
147 paid by the employer or the insurance carrier of such employer who  
148 shall be reimbursed for such cost from the Second Injury Fund

149 provided for in section 31-354. No claim for payment of retroactive  
150 benefits may be made to the Second Injury Fund more than two years  
151 after the date on which the employer or its insurance carrier paid such  
152 benefits in accordance with this subsection.

153 Sec. 5. Section 31-307a of the general statutes is repealed and the  
154 following is substituted in lieu thereof (*Effective July 1, 2006*):

155 (a) The weekly compensation rate of each employee entitled to  
156 receive compensation under section 31-307 as a result of an injury  
157 sustained on or after October 1, 1969, and before July 1, 1993, which  
158 totally disables the employee continuously or intermittently for any  
159 period extending to the following October first or thereafter, shall be  
160 adjusted annually as provided in this subsection as of the following  
161 October first, and each subsequent October first, to provide the injured  
162 employee with a cost-of-living adjustment in his or her weekly  
163 compensation rate as determined as of the date of the injury under  
164 section 31-309. If the maximum weekly compensation rate as  
165 determined under the provisions of section 31-309, to be effective as of  
166 any October first following the date of the injury, is greater than the  
167 maximum weekly compensation rate prevailing as of the date of the  
168 injury, the weekly compensation rate which the injured employee was  
169 entitled to receive at the date of the injury or October 1, 1990,  
170 whichever is later, shall be increased by the percentage of the increase  
171 in the maximum weekly compensation rate required by the provisions  
172 of section 31-309 from the date of the injury or October 1, 1990,  
173 whichever is later, to such October first. The cost-of-living increases  
174 provided under this subsection shall be paid by the employer without  
175 any order or award from the commissioner. The adjustments shall  
176 apply to each payment made in the next succeeding twelve-month  
177 period commencing with the October first next succeeding the date of  
178 the injury.

179 (b) The weekly compensation rate of each employee entitled to  
180 receive compensation under section 31-307 as a result of an injury  
181 sustained prior to October 1, 1969, which has disabled the employee

182 for a period extending to October 1, 1969, or thereafter shall be  
183 adjusted as of October 1, 1969, and annually thereafter, as provided in  
184 this subsection to provide the injured employee with a partial cost-of-  
185 living adjustment in his or her weekly compensation rate. The weekly  
186 compensation rate paid prior to October 1, 1969, to the injured  
187 employee shall be increased as of October 1, 1969, by the amount that  
188 the maximum weekly compensation rate as determined under section  
189 31-309 to be effective for injuries sustained on or after October 1, 1969,  
190 is greater than the maximum weekly compensation rate as determined  
191 under section 31-309 to be effective for injuries sustained on or after  
192 October 1, 1965, or the date of the injury, whichever is later, but not  
193 more than fifteen dollars per week. Thereafter, increases, if any, for  
194 cost-of-living as provided in subsection (a) of this section shall be  
195 added to the amount of weekly compensation payable as of the date of  
196 the injury or October 1, 1990, whichever is later. The partial cost-of-  
197 living adjustments provided under this subsection shall be paid by the  
198 employer without any order or award from the commissioner. The  
199 adjustments shall apply to each payment made in the next twelve-  
200 month period, on or after October 1, 1969. The cost of the adjustments  
201 shall be paid by the employer or [his] the employer's insurance carrier  
202 who shall be reimbursed therefor from the Second Injury Fund as  
203 provided in section 31-354 upon presentation of any vouchers and  
204 information that the Treasurer shall require. No claim for payment of  
205 retroactive benefits may be made to the Second Injury Fund more than  
206 two years after the date on which the employer or its insurance carrier  
207 paid such benefits in accordance with this subsection.

208 (c) On and after October 1, 1997, the weekly compensation rate of  
209 each employee entitled to receive compensation under section 31-307  
210 as a result of an injury sustained on or after July 1, 1993, which totally  
211 incapacitates the employee permanently, shall be adjusted as provided  
212 in this subsection as of October 1, 1997, or the October first following  
213 the injury date, whichever is later, and annually on each subsequent  
214 October first, to provide the injured employee with a cost-of-living  
215 adjustment in his or her weekly compensation rate as determined as of  
216 the date of injury under section 31-309. If the maximum weekly

217 compensation rate, as determined under the provisions of said section  
218 31-309, to be effective as of any October first following the date of the  
219 injury, is greater than the maximum weekly compensation rate  
220 prevailing as of the date of injury, the weekly compensation rate which  
221 the injured employee was entitled to receive as of the date of injury  
222 shall be increased by the percentage of the increase in the maximum  
223 weekly compensation rate required by the provisions of said section  
224 31-309 from the date of the injury to such October first. The cost-of-  
225 living adjustments provided under this subdivision shall be paid by  
226 the employer without any order or award from the commissioner. The  
227 adjustments shall apply to each payment made in the next succeeding  
228 twelve-month period commencing with October 1, 1997, or the  
229 October first next succeeding the date of injury, whichever is later.  
230 With respect to any employee receiving benefits on October 1, 1997,  
231 with respect to any such injury occurring on or after July 1, 1993, and  
232 before October 1, 1997, or with respect to any employee who was  
233 adjudicated to be totally incapacitated permanently subsequent to the  
234 date of his or her injury or is totally incapacitated permanently due to  
235 the fact that the employee has been totally incapacitated by such an  
236 injury for a period of five years or more, such benefit shall be  
237 recalculated to October 1, 1997, to the date of such adjudication or to  
238 the end of such five-year period, as the case may be, as if such benefits  
239 had been subject to recalculation annually under the provisions of this  
240 subsection. The difference between the amount of any benefits which  
241 would have been paid to such employee if such benefits had been  
242 subject to such recalculation and the actual amount of benefits paid  
243 during the period between such injury and such recalculation shall be  
244 paid to the dependent not later than December 1, 1997, or thirty days  
245 after such adjudication or the end of such period, as the case may be, in  
246 a lump-sum payment. The employer or [his] the employer's insurer  
247 shall be reimbursed by the Second Injury Fund, as provided in section  
248 31-354, for adjustments, including lump-sum payments, payable under  
249 this subsection for compensable injuries occurring on or after July 1,  
250 1993, and before October 1, 1997, upon presentation of any vouchers  
251 and information that the Treasurer shall require. No claim for payment

252 of retroactive benefits may be made to the Second Injury Fund more  
253 than two years after the date on which the employer or its insurance  
254 carrier paid such benefits in accordance with this subsection.

255 Sec. 6. Section 31-307b of the general statutes is repealed and the  
256 following is substituted in lieu thereof (*Effective July 1, 2006*):

257 If any employee who receives compensation under section 31-307  
258 returns to work after recovery from his or her injury and subsequently  
259 suffers total or partial incapacity caused by a relapse from the recovery  
260 from, or a recurrence of, the injury, the employee shall be paid a  
261 weekly compensation equal to seventy-five per cent of his or her  
262 average weekly earnings as of the date of the original injury or at the  
263 time of his or her relapse or at the time of the recurrence of the injury,  
264 whichever is the greater sum, calculated pursuant to section 31-310, as  
265 amended by this act, after such earnings have been reduced by any  
266 deduction for federal or state taxes, or both, and for the federal  
267 Insurance Contributions Act made from such employee's total wages  
268 received during the period of calculation of the employee's average  
269 weekly wage pursuant to said section 31-310, as amended by this act,  
270 but not more than (1) the maximum compensation rate set pursuant to  
271 section 31-309 if the employee suffers total incapacity, or (2) one  
272 hundred per cent, raised to the next even dollar, of the average weekly  
273 earnings of production and related workers in manufacturing in the  
274 state, as determined in accordance with the provisions of section 31-  
275 309, if the employee suffers partial incapacity, for the year in which the  
276 employee suffered the relapse or recurrent injury and the minimum  
277 rate under this chapter for that year, and provided (A) the  
278 compensation shall not continue longer than the period of total or  
279 partial incapacity following the relapse or recurrent injury and (B) no  
280 employee eligible for compensation for specific injuries set forth in  
281 section 31-308 shall receive compensation under this section. The  
282 employee shall also be entitled to receive the cost-of-living adjustment  
283 provided in accordance with the provisions of section 31-307a, as  
284 amended by this act, commencing on October first following the  
285 relapse or recurrent injury which disables him or her. If the injury

286 occurred originally prior to October 1, 1969, the difference between the  
287 employee's original weekly compensation rate and the rate required by  
288 this section and the cost-of-living adjustment, if any, thereafter due  
289 shall be paid initially by the employer or [his] the employer's insurance  
290 carrier who shall be reimbursed for such payment from the Second  
291 Injury Fund as provided by section 31-354 upon presentation of any  
292 vouchers and information that the Treasurer shall require. No claim  
293 for payment of retroactive benefits may be made to the Second Injury  
294 Fund more than two years after the date on which the employer or its  
295 insurance carrier paid such benefits in accordance with this section. In  
296 no event shall the employee receive more than the prevailing  
297 maximum compensation.

298 Sec. 7. Subsection (a) of section 31-310 of the general statutes is  
299 repealed and the following is substituted in lieu thereof (*Effective July*  
300 *1, 2006*):

301 (a) For the purposes of this chapter, the average weekly wage shall  
302 be ascertained by dividing the total wages received by the injured  
303 employee from the employer in whose service [he] the employee is  
304 injured during the fifty-two calendar weeks immediately preceding the  
305 week during which [he] the employee was injured, by the number of  
306 calendar weeks during which, or any portion of which, the employee  
307 was actually employed by the employer, but, in making the  
308 computation, absence for seven consecutive calendar days, although  
309 not in the same calendar week, shall be considered as absence for a  
310 calendar week. When the employment commenced otherwise than at  
311 the beginning of a calendar week, that calendar week and wages  
312 earned during that week shall be excluded in making the computation.  
313 When the period of employment immediately preceding the injury is  
314 computed to be less than a net period of two calendar weeks, the  
315 employee's weekly wage shall be considered to be equivalent to the  
316 average weekly wage prevailing in the same or similar employment in  
317 the same locality at the date of the injury except that, when the  
318 employer has agreed to pay a certain hourly wage to the employee, the  
319 hourly wage so agreed upon shall be the hourly wage for the injured

320 employee and [his] the employee's average weekly wage shall be  
321 computed by multiplying the hourly wage by the regular number of  
322 hours that is permitted each week in accordance with the agreement.  
323 For the purpose of determining the amount of compensation to be paid  
324 in the case of a minor under the age of eighteen who has sustained an  
325 injury entitling [him] the employee to compensation for total or partial  
326 incapacity for a period of fifty-two or more weeks, or to specific  
327 indemnity for any injury under the provisions of section 31-308, the  
328 commissioner may add fifty per cent to [his] the employee's average  
329 weekly wage, except in the case of a minor under the age of sixteen,  
330 the commissioner may add one hundred per cent to [his] the minor's  
331 average weekly wage. When the injured employee is a trainee or  
332 apprentice receiving a subsistence allowance from the United States  
333 because of war service, the allowance shall be added to [his] the  
334 injured employee's actual earnings in determining the average weekly  
335 wage. Where the injured employee has worked for more than one  
336 employer as of the date of the injury and the average weekly wage  
337 received from the employer in whose employ [he] the injured  
338 employee was injured, as determined under the provisions of this  
339 section, are insufficient [for him] to obtain the maximum weekly  
340 compensation rate from the employer under section 31-309, prevailing  
341 as of the date of the injury, [his] the injured employee's average weekly  
342 wages shall be calculated upon the basis of wages earned from all such  
343 employers in the period of concurrent employment not in excess of  
344 fifty-two weeks prior to the date of the injury, but the employer in  
345 whose employ the injury occurred shall be liable for all medical and  
346 hospital costs and a portion of the compensation rate equal to seventy-  
347 five per cent of the average weekly wage paid by [him] the employer  
348 to the injured employee, after such earnings have been reduced by any  
349 deduction for federal or state taxes, or both, and for the federal  
350 Insurance Contribution Act made from such employee's total wages  
351 received from such employer during the period of calculation of such  
352 average weekly wage, but not less than an amount equal to the  
353 minimum compensation rate prevailing as of the date of the injury.  
354 The remaining portion of the applicable compensation rate shall be

355 paid from the Second Injury Fund upon submission to the Treasurer  
356 by the employer or the employer's insurer of such vouchers and  
357 information as the Treasurer may require. For purposes of this  
358 subsection, the Second Injury Fund shall not be deemed an employer  
359 or an insurer for any claim brought on behalf of an insolvent insurer  
360 and shall be exempt from liability, unless such claim is brought not  
361 later than thirty days after a determination of such insurer's  
362 bankruptcy. No claim for payment of retroactive benefits may be made  
363 to the Second Injury Fund more than two years from the date on which  
364 the employer or its insurer paid such benefits in accordance with this  
365 subsection. In cases which involve concurrent employment and in  
366 which there is a claim against a third party, the injured employee or  
367 the employer in whose employ the injury was sustained or the  
368 employer's insurer shall advise the custodian of the Second Injury  
369 Fund if there is a third party claim, and the employee, employer or  
370 employer's insurer shall pursue its subrogation rights as provided for  
371 in section 31-293 and shall include in its claim all compensation paid  
372 by the Second Injury Fund and shall reimburse the Second Injury Fund  
373 for all payments made for compensation in the event of a recovery  
374 against the third party.

375 Sec. 8. Section 31-349g of the general statutes is repealed and the  
376 following is substituted in lieu thereof (*Effective July 1, 2006*):

377 (a) [On or before January 1, 1996, the] For purposes of this section:

378 (1) "Insured employer" means an employer who insures its risks  
379 incurred under chapter 568 with an insurance company authorized to  
380 issue workers' compensation policies in this state by the Insurance  
381 Department, and includes any member of a workers' compensation  
382 pool administered by an interlocal risk management agency, and on  
383 and after January 1, 2005, an employer mutual association organized  
384 prior to June 6, 1996, with a membership composed exclusively of  
385 health care providers and whose premium base is derived entirely  
386 from health care organizations.

387 (2) "Self-insured employer" means an employer who is approved to

388 self-insure its liabilities under chapter 568 by the chairman of the  
389 Workers' Compensation Commission. For the period commencing  
390 October 1, 2004, and ending December 31, 2004, "self-insured  
391 employer" includes an employer mutual association organized prior to  
392 June 6, 1996, with a membership composed exclusively of health care  
393 providers and whose premium base is derived entirely from health  
394 care organizations.

395 (3) "Paid losses" means the total gross indemnity, medical and any  
396 other expenses paid by or on behalf of an employer, including all legal  
397 expenses paid for the benefit of an injured worker in accordance with  
398 chapter 568.

399 (4) "Second Injury Fund Assessment Premium" means a direct,  
400 written premium prior to application of any deductible policy  
401 premium credits. No corporate accounting adjustments shall be  
402 included in the Second Injury Fund Assessment Premium reported to  
403 the Second Injury Fund.

404 (b) The State Treasurer, in consultation with the Insurance  
405 Commissioner, [shall] may adopt regulations, in accordance with the  
406 provisions of chapter 54, regarding the method of assessing and  
407 auditing all employers and insurers for the liabilities of the Second  
408 Injury Fund. The liabilities shall be allocated between self-insured  
409 employers and insured employers based on a percentage of paid losses  
410 for the preceding calendar year for each group. No credits shall be  
411 taken against paid losses, except voided checks in connection with  
412 expenses paid under chapter 568 previously reported as a paid loss,  
413 recoveries from third party tortfeasors, reimbursement granted  
414 pursuant to section 31-299b and Second Injury Fund reimbursements.  
415 The method of [assessing] assessment for self-insured employers shall  
416 be based on paid losses. The method of assessment for insured  
417 employers, [shall be a surcharge based on premium] for policies with  
418 effective dates before July 1, 2006, shall be based on the standard  
419 premium, and for policies with effective dates on or after July 1, 2006,  
420 shall be based on the Second Injury Fund Assessment Premium. In

421 adopting regulations under this section, the State Treasurer shall  
422 consider their effect upon (1) the cost of doing business in this state, (2)  
423 the overall cost of the workers' compensation system, (3) the effect of  
424 the regulations on insurers, insureds and self-insured employers, and  
425 (4) the financial condition and liabilities of the fund.

426 [(b)] (c) An employer mutual association organized prior to June 6,  
427 1996, with a membership composed exclusively of health care  
428 providers and whose premium base is derived entirely from health  
429 care organizations may make payments without penalty or interest  
430 over a five-year period for any outstanding assessment due from the  
431 association for the period commencing January 1, 1996, and ending  
432 December 31, 2004.

433 [(c) For purposes of this section:

434 (1) "Insured employer" includes any member of a workers'  
435 compensation pool administered by an interlocal risk management  
436 agency, and on and after January 1, 2005, an employer mutual  
437 association organized prior to June 6, 1996, with a membership  
438 composed exclusively of health care providers and whose premium  
439 base is derived entirely from health care organizations.

440 (2) For the period commencing October 1, 2004, and ending  
441 December 31, 2004, "self-insured employer" includes an employer  
442 mutual association organized prior to June 6, 1996, with a membership  
443 composed exclusively of health care providers and whose premium  
444 base is derived entirely from health care organizations.]

445 (d) (1) For insured employers, the Second Injury Fund Assessment  
446 Premium shall be reported to the fund in the quarter of the effective  
447 date of the policy, regardless of when the policy is billed by the  
448 insurance carrier or self-insurance group or paid by the policyholder  
449 or group self-insured member. All endorsements, retrospective  
450 adjustments and audits shall be reported in the quarter of issuance to  
451 the policyholder or member by the insurance carrier or group self-  
452 insured employer. Insurance carriers and group self-insured

453 employers are responsible for correct billing, timely collection and  
454 payments of the Second Injury Fund Assessment Premium to the  
455 Second Injury Fund.

456 (2) The custodian of the fund shall conduct an audit or periodic  
457 audits of any self-insured employer, group self-insured employer,  
458 insured employer or insurance company relative to any information or  
459 payment required by the custodian. The employer and insurer shall  
460 provide all necessary documents and information in relation to an  
461 audit by the custodian in a manner prescribed by the Treasurer. In the  
462 event of failure to provide such information, the Treasurer shall notify  
463 the Insurance Commissioner or chairman of the Workers'  
464 Compensation Commission, either of whom shall hold a hearing not  
465 later than sixty days after such notice to determine whether the  
466 employer is in compliance. Upon a finding of noncompliance, the  
467 commissioner or chairman shall order compliance and may impose  
468 finances, or suspend or revoke the insurer or employer's right to transact  
469 business in the state. The period of review of an audit shall be not  
470 more than three years, except that when the date of the previous audit  
471 is less than three years prior to such audit, the period of review shall  
472 be to the date of such prior audit. If the audit determines repeated  
473 errors or underreporting by an employer or insurer, the Fund reserves  
474 the right to audit an additional two-year review period. Upon the  
475 determination of the Treasurer or the Treasurer's agents, as a result of  
476 an audit, that an employer or insurer has not properly reported to the  
477 Second Injury Fund and, as a result, has underpaid its assessment, the  
478 employer or insurer, upon notice from the Treasurer or the Treasurer's  
479 agent, shall pay the full amount of the underpaid assessment, along  
480 with interest and any penalty due not later than thirty days after such  
481 notice.

482 Sec. 9. Section 31-353 of the general statutes is repealed and the  
483 following is substituted in lieu thereof (*Effective July 1, 2006*):

484 If the Treasurer and an injured employee, or his legal representative,  
485 reach an agreement in regard to compensation payable under [section

486 31-349] the provisions of chapter 568, such agreement shall be  
487 submitted in writing to the commissioner for his approval and, upon  
488 approval, shall remain in effect until otherwise ordered by the  
489 commissioner. [He] The Treasurer may make payment by way of final  
490 settlement in any matter concerning the fund, including matters under  
491 section 31-355, as amended by this act, subject to the approval of the  
492 commissioner, whenever it is for the best interests of the injured  
493 employee.

494 Sec. 10. Subsection (a) of section 31-354 of the general statutes is  
495 repealed and the following is substituted in lieu thereof (*Effective July*  
496 *1, 2006*):

497 (a) There shall be a fund to be known as the Second Injury Fund.  
498 Each employer, other than the state, shall, within thirty days after  
499 notice given by the State Treasurer, pay to the State Treasurer for the  
500 use of the state a sum in payment of his liability under this chapter  
501 which shall be the [special assessment premium surcharge] Second  
502 Injury Fund Assessment Premium, as defined in section 31-349g, as  
503 amended by this act, and shall be assessed in accordance with  
504 subsection (f) of section 31-349, sections 31-349g, as amended by this  
505 act, 31-349h and 31-349i, this section, section 31-354b and sections 8  
506 and 9 of public act 96-242\*. Such sum shall be an amount sufficient to  
507 (1) pay the debt service on state revenue bond obligations authorized  
508 to be issued under and for the purposes set forth in section 31-354b  
509 including reserve and covenant coverage requirements, (2) provide for  
510 costs and expenses of operating the Second Injury Fund, and (3) pay  
511 Second Injury Fund stipulations on claims settled by the custodian or  
512 other benefits payable out of the Second Injury Fund and not funded  
513 through state revenue bond obligations and shall be determined in  
514 accordance with the regulations adopted pursuant to the provisions of  
515 section 31-349g, as amended by this act. The custodian shall establish a  
516 factor for the annual [special] assessment [premium surcharge] that  
517 caps such [surcharge] assessment for the fiscal years ending June 30,  
518 1996, 1997 and 1998. In determining such factor the custodian shall  
519 consider the funding mechanism authorized by subsection (f) of

520 section 31-349, sections 31-349g, as amended by this act, 31-349h and  
521 31-349i, this section, section 31-354b and sections 8 and 9 of public act  
522 96-242\*, recognize that an acceptable level of employer assessment is  
523 important to the vitality of the economy of the state and nevertheless  
524 shall assure provision of services to injured workers that enhances  
525 their ability to return to work and improve their quality of life. In any  
526 event, such factor shall not exceed, with respect to insured employers,  
527 a rate of fifteen per cent on the [standard premiums] Second Injury  
528 Fund Assessment Premium with respect to workers' compensation and  
529 employers' liability policies and, with respect to self-insured  
530 employers, a comparable percentage limitation representing their pro  
531 rata share of any [special] assessment. [premium surcharge.] Any  
532 employer or insurance company who fails to pay in accordance with  
533 such regulations shall pay [interest] a penalty to the State Treasurer  
534 [on the sum at the rate] of fifteen per cent [per annum from the date  
535 the sum should have been paid until the date of payment] or a  
536 minimum of fifty dollars on the unpaid assessment. Interest at the rate  
537 of six per cent per annum shall be charged on any amounts owed on  
538 assessment audits. For self-insured employers interest shall accrue  
539 thirty days after notice from the Second Injury Fund of the unpaid  
540 audit assessment. For insurance companies, the interest shall accrue  
541 from the date of the notice of audit errors or deficiencies. The State  
542 Treasurer shall notify each employer of the penalty or interest  
543 provision with the notice of assessment. [Effective July 1, 1993,  
544 whenever the assessment is levied, the State Treasurer shall pay to the  
545 fund, on behalf of the state, a sum not to exceed the total amount of  
546 money expended by the fund on behalf of state employees during the  
547 period following the last assessment.] Any partial payments made to  
548 the fund shall be first applied to any unpaid penalty, then to any  
549 unpaid interest and the remainder, if any, to the unpaid assessment.  
550 Interest or penalties shall be applied if assessment reports or payments  
551 are received by the fund after the designated due date. The sums  
552 received shall be accounted for separately and apart from all other  
553 state moneys and the faith and credit of the state of Connecticut is  
554 pledged for their safekeeping. The State Treasurer shall be the

555 custodian of the fund and all disbursements from the fund shall be  
556 made by [him or his] the Treasurer or the Treasurer's deputies. The  
557 moneys of the fund shall be invested by [him] the Treasurer in  
558 accordance with applicable law and section 8 of public act 96-242\*.  
559 Interest, income and dividends from the investments shall be credited  
560 to the fund. Each employer, each private insurance carrier acting on  
561 behalf of any employer and each interlocal risk management agency  
562 acting on behalf of any employer shall annually, on or before April  
563 first, report to the State Treasurer, in the form prescribed by the State  
564 Treasurer, the amount of money expended by or on behalf of the  
565 employer in payments for the preceding calendar year. Each private  
566 insurance carrier and each interlocal risk management agency shall  
567 submit annually, on or before April first, to the State Treasurer, in the  
568 form prescribed by the State Treasurer, a report of the total [standard  
569 earned premium] Second Injury Fund Assessment Premium collected  
570 in the preceding calendar year and a report of the projected total  
571 [standard earned premium] Second Injury Fund Assessment Premium  
572 for the current calendar year. The fund shall be used to provide the  
573 benefits set forth in section 31-306, as amended by this act, for  
574 adjustments in the compensation rate and payment of certain death  
575 benefits, in section 31-307b, as amended by this act, for adjustments  
576 where there are relapses after a return to work, in section 31-307c for  
577 totally disabled persons injured prior to October 1, 1953, in section 31-  
578 349 for disabled or handicapped employees and in section 31-355, as  
579 amended by this act, for the payment of benefits due injured  
580 employees whose employers or insurance carriers have failed to pay  
581 the compensation, and medical expenses required by this chapter, or  
582 any other compensation payable from the fund as may be required by  
583 any provision contained in this chapter or any other statute and to  
584 reimburse employers or insurance carriers for payments made under  
585 subsection (b) of section 31-307a, as amended by this act. The  
586 assessment required by this section is a condition of doing business in  
587 this state and failure to pay the assessment, when due, shall result in  
588 the denial of the privilege of doing business in this state or to self-  
589 insure under section 31-284. Any administrative or other costs or

590 expenses incurred by the State Treasurer in connection with carrying  
591 out the provisions of this part, including the hiring of necessary  
592 employees, shall be paid from the fund. The State Treasurer may adopt  
593 regulations, in accordance with the provisions of chapter 54,  
594 prescribing the practices, policies and procedures to be followed in the  
595 administration of the Second Injury Fund.

596 Sec. 11. Section 31-355 of the general statutes is repealed and the  
597 following is substituted in lieu thereof (*Effective July 1, 2006*):

598 (a) The commissioner shall give notice to the Treasurer of all  
599 hearing of matters [which] that may involve payment from the Second  
600 Injury Fund, and may make an award directing the Treasurer to make  
601 payment from the fund.

602 (b) When an award of compensation has been made under the  
603 provisions of this chapter against an employer who [fails] failed or is  
604 unable to pay [medical and surgical aid or hospital and nursing service  
605 required under this chapter or any type of compensation for disability,  
606 or both, whether for total or partial disability of a permanent or  
607 temporary nature, death benefit, funeral expense,] such compensation  
608 or any adjustment in compensation required by this chapter, and  
609 whose insurer [fails or] failed and is unable to pay the compensation,  
610 such compensation shall be paid from the Second Injury Fund. The  
611 commissioner, on a finding of failure or inability to pay compensation,  
612 shall give notice to the Treasurer of the award, directing the Treasurer  
613 to make payment from the fund. Whenever liability to pay  
614 compensation is contested by the Treasurer, the Treasurer shall file  
615 with the commissioner, on or before the twenty-eighth day after [he]  
616 the Treasurer has received an order of payment from the  
617 commissioner, a notice in accordance with a form prescribed by the  
618 chairman of the Workers' Compensation Commission stating that the  
619 right to compensation is contested, the name of the claimant, the name  
620 of the employer, the date of the alleged injury or death and the specific  
621 grounds on which the right to compensation is contested. A copy of  
622 the notice shall be sent to the employee. The commissioner shall hold a

623 hearing on such contested liability at the request of the Treasurer or  
624 the employee in accordance with the provisions of this chapter. If the  
625 Treasurer fails to file the notice contesting liability within the time  
626 prescribed in this section, the Treasurer shall be conclusively  
627 presumed to have accepted the compensability of such alleged injury  
628 or death from the Second Injury Fund and shall have no right  
629 thereafter to contest the employee's right to receive compensation on  
630 any grounds or contest the extent of the employee's disability.

631 (c) The employer and the insurer, if any, shall be liable to the state  
632 for any payments made out of the fund in accordance with this section  
633 or which the [state] Treasurer has by award become obligated to make  
634 from the fund, together with cost of attorneys' fees as fixed by the  
635 court. If reimbursement is not made, or a plan for payment to the fund  
636 has not been agreed to by the Treasurer and employer, [within] not  
637 later than ninety days [of] after any payment from the fund, the  
638 Attorney General shall bring a civil action, in the superior court for the  
639 judicial district where the award was made, to recover all amounts  
640 paid by the fund pursuant to the award, plus double damages together  
641 with reasonable attorney's fees and costs as taxed by the court. Any  
642 amount paid to the Treasurer by the employer or insurer after the  
643 filing of an action, but prior to its completion, shall be subject to an  
644 interest charge of eighteen per cent per annum, calculated from the  
645 date of original payment from the fund.

646 (d) Any recovery made under this section, including any recovery  
647 for costs or attorney's fees, shall be paid into the fund. Any  
648 administrative or other costs or expenses incurred by the Attorney  
649 General in connection with carrying out the purposes of this section,  
650 including the hiring of necessary employees, shall be paid from the  
651 fund. The Treasurer shall adopt regulations, in accordance with the  
652 provisions of chapter 54, which describe what constitutes a proper and  
653 sufficient "plan for payment to the fund" for the purposes of this  
654 section.

655 (e) Notwithstanding the provisions of subsections (a) to (d),

656 inclusive, of this section, whenever the employer's insurer has been  
657 determined to be insolvent, as defined in section 38a-838, payments  
658 required under this section shall be the obligation of the Connecticut  
659 Insurance Guaranty Association pursuant to the provisions of sections  
660 38a-836 to 38a-853, inclusive.

661 (f) Notwithstanding subsection (b) of this section, the commissioner  
662 may approve a stipulated settlement for benefits between an injured  
663 worker and the Treasurer under this chapter prior to the issuance of a  
664 finding and award against the employer if the commissioner  
665 determines that it is in the best interest of the injured workers to do so.  
666 Notice of the proposed settlement shall be sent to the employer. The  
667 commissioner shall hold a hearing on such proposed settlement at the  
668 request of the employer in accordance with the provisions of this  
669 chapter. If the employer does not file with the Workers' Compensation  
670 Commission a written objection to the proposed settlement not later  
671 than twenty-eight days after the date of the notice to the employer of  
672 the proposed settlement, the employer shall be deemed to have  
673 consented to the proposed settlement and may not thereafter contest  
674 the terms of the settlement in any forum. Where payment has been  
675 ordered under this subsection, the terms of such order shall have the  
676 same status and be governed by the same provisions as an award  
677 issued pursuant to subsection (b) of this section.

678 (g) Nothing in this section shall preclude the Treasurer from  
679 entering into an agreement with the employer for the reimbursement  
680 of expenses, costs or benefits paid by the fund. The Treasurer, the  
681 uninsured employer, the injured worker, or the injured worker's  
682 beneficiaries, or a third party who is liable under section 31-293 may  
683 enter into a settlement agreement to finally or partially settle the rights  
684 and liabilities of any or all parties under this chapter, subject to the  
685 approval of the commissioner.

686 (h) When a finding and award of compensation has been made  
687 against an uninsured employer who fails to pay it, that compensation  
688 shall be paid from the Second Injury Fund, and if there are further

689 claims for any related, reasonable and necessary treatment, payment  
 690 shall be provided to the claimant without a subsequent finding and  
 691 award.

692 Sec. 12. Subdivision (4) of section 38a-844 of the general statutes is  
 693 repealed and the following is substituted in lieu thereof (*Effective July*  
 694 *1, 2006*):

695 (4) The association shall have the right to recover from the following  
 696 persons the amount of any covered claim paid on behalf of such  
 697 person pursuant to sections 38a-836 to 38a-853, inclusive: (A) Any  
 698 person who is an affiliate of the insolvent insurer and whose liability  
 699 obligations to other persons are satisfied in whole or in part by  
 700 payments made under this chapter; and (B) any insured whose net  
 701 worth on December thirty-first of the year next preceding the date the  
 702 insurer becomes an insolvent insurer exceeds fifty million dollars and  
 703 whose liability obligations to other persons are satisfied in whole or in  
 704 part by payments made under said sections. For purposes of this  
 705 subdivision, "insured" does not include a municipality, as defined in  
 706 section 7-148, or the Second Injury Fund, established in section 31-354.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2006</i>	31-299b
Sec. 2	<i>July 1, 2006</i>	31-306(a)(2)
Sec. 3	<i>July 1, 2006</i>	31-306(c)
Sec. 4	<i>July 1, 2006</i>	31-306(d)
Sec. 5	<i>July 1, 2006</i>	31-307a
Sec. 6	<i>July 1, 2006</i>	31-307b
Sec. 7	<i>July 1, 2006</i>	31-310(a)
Sec. 8	<i>July 1, 2006</i>	31-349g
Sec. 9	<i>July 1, 2006</i>	31-353
Sec. 10	<i>July 1, 2006</i>	31-354(a)
Sec. 11	<i>July 1, 2006</i>	31-355
Sec. 12	<i>July 1, 2006</i>	38a-844(4)

**LAB**      *Joint Favorable Subst.*

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:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Treasurer	SIF - Revenue Gain	Potential Indeterminate	Potential Indeterminate
Treasurer	SIF - Savings	Potential Indeterminate	Potential Indeterminate

Note: SIF=Second Injury Fund

**Municipal Impact:** None

**Explanation**

This bill makes several changes to the laws governing the Second Injury Fund (SIF). The bill exempts the fund from liability in certain cases and reduces the fund’s potential liability by prohibiting retroactive claims older than two years from the date on which the employer or its insurer paid benefits. These changes may reduce the fund’s liability, which would result in an indeterminate savings to the SIF.

The bill authorizes penalties of 15% for insurers and employers who fail to pay their assessment premium, and 6% annual interest on those unpaid assessments. These changes may result in an indeterminate revenue gain for the SIF.

It should be noted that, while the SIF is operated by the State Treasurer, it is financed by private employer contributions. The assessment rate for insured employers is 6.5%, and 11.6% for self-insured employers.

**OLR Bill Analysis**

sSB 1336

**AN ACT CONCERNING REVISIONS TO STATUTES GOVERNING THE SECOND INJURY FUND****SUMMARY:**

This bill makes changes to the laws governing the Second Injury Fund, a state-run workers' compensation fund that the state treasurer administers. It exempts the fund from liability in certain cases and reduces the fund's potential liability by prohibiting retroactive claims older than two years from the date on which the employer or its insurer paid benefits.

It changes the method of assessing employers for fund liabilities and authorizes:

1. the treasurer to audit employers and insurers regarding fund liabilities;
2. suspension or revocation of the insurer's or employer's right to do business in the state upon findings of noncompliance;
3. penalties of 15% for insurers and employers who fail to pay their assessment premium to the fund and 6% annual interest on unpaid assessments; and
4. workers' compensation commissioners and the treasurer to enter into settlements with claimants.

For insured employers, the bill imposes billing and payment responsibilities on their insurance carriers.

EFFECTIVE DATE: July 1, 2006

**PROVISIONS REDUCING LIABILITY**

The bill reduces the fund's liability by (1) exempting the fund from being considered an employer or insurer when liability is given to an

employee's previous employers, (2) prohibiting claims on the fund older than two years from the date on which the employer or its insurer paid benefits, (3) exempting it from claims brought due to an insolvent insurer, and (4) exempting it from claims by the Insurance Guarantee Association.

### ***Reimbursement in Previous Employer Claims (Sec. 1)***

By law, a person's last employer is initially responsible for his workers' compensation claim. But a workers' compensation commissioner can order an earlier employer or his insurer to reimburse the last employer or his insurer, if the commissioner determines that the earlier employer is partially liable for the claim. Under the bill, the fund is not an employer or insurer, and thus is exempt from liability. Under the bill, any amount the Second Injury Fund is exempted from will be proportionally reallocated between the other insurers or former employers.

### ***Retroactive Benefit Claims (Sec. 2-7)***

The bill exempts the fund from any liability for retroactive benefit claims older than two years from the date on which the employer or its insurer paid benefits. It applies this liability limitation on workers' compensation death benefits, cost of living increases, benefits after a relapse, and cases of insolvent insurers.

### ***Insolvent Insurer Claims (Sec. 7)***

In situations where more than one employer is liable for compensation, the bill exempts the fund from claims brought due to an insolvent insurer.

### ***Insurance Guarantee Association (Sec. 12)***

The bill exempts the fund from claims by the Insurance Guarantee Association, another statutorily created entity that makes payments when an insurer goes bankrupt.

### **EMPLOYER ASSESSMENT (SEC. 8)**

The bill creates a new method for assessing employers and adds specifics to the definition of "insured employer" and "self-insured employer."

Under the bill, an insured employer means an employer who insures its workers' compensation risks with an insurance company the state authorized to issue workers' compensation policies in Connecticut. It requires that a self-insured employer be one that the workers' compensation chairman has approved to self-insure under the Workers' Compensation Act.

The bill specifies that the treasurer must allocate the fund's assessments between self-insured employers and insured employers based on a percentage of paid losses for each group for the preceding calendar year. The bill prohibits credits taken against paid losses except:

1. voided checks in connection with expenses paid under the workers' compensation act previously reported as a paid loss,
2. recoveries from third party tortfeasors, and
3. reimbursement granted under the initial liability of last employer law and Second Injury Fund reimbursements.

Starting with policies effective July 1, 2006 or later, the assessment for insured employers will be based on the Second Injury Fund Assessment Premium (SIFAP), which the bill defines as a direct, written premium prior to application of any deductible policy premium credits. It specifies that no corporate accounting adjustments shall be included in the SIFAP reported to the fund. Currently, the assessment for insured employers is based on a standard premium (not defined in law), which may include deductible premium credits and is subject to accounting adjustments that can delay payment to the Second Injury Fund. The bill makes conforming changes replacing standard premium with the SIFAP.

By law and unchanged by the bill, the fund assesses self-insured employers based on the employer's paid losses.

The bill allows, instead of requires, the treasurer to adopt regulations regarding assessing employers. The bill authorizes the treasurer to adopt regulations on the method for (1) auditing employers and insurers, and (2) assessing insurers (although the bill does not provide for such assessments).

**AUDITS, HEARINGS, AND PENALTIES (SECS. 8 & 10)**

The bill gives the treasurer the authority to conduct periodic audits of any self-insured employer, group self-insured employer, insured employer, or insurance company regarding any information or payment the treasurer requires. The employer and insurer must provide all necessary documents and information the treasurer requires. If an employer or insurer fails to provide such information, the treasurer must notify the insurance commissioner or chairman of the Workers' Compensation Commission, as appropriate, either of whom must hold a hearing not later than 60 days after the notice to determine whether the party in question is in compliance.

Under the bill, after a finding of noncompliance, the commissioner or chairman must order compliance and may impose fines, or suspend or revoke the insurer or employer's right to transact business in the state.

Audit periods cannot cover more than three years. But if the last audit was conducted less than three years earlier, the period of review must be to the date of the prior audit. If the audit determines repeated errors or underreporting by an employer or insurer, the fund may conduct an audit covering an additional two-year period.

Upon the determination of the treasurer or her agents, as a result of an audit, that an employer or insurer has not properly reported to the fund and, as a result, has underpaid its assessment, the employer or insurer, upon notice from the treasurer, must pay the full amount of the underpaid assessment, along with interest and any penalty due not later than 30 days after the notice.

If an audit indicates that an employer or insurer has not properly reported to the fund and, as a result, has underpaid its assessment, the treasurer can require the employer to pay the full amount of the assessment along with interest and penalty due not later than 30 days after the treasurer's notice.

**FINES AND INTEREST PAYMENTS (SEC. 10)**

The bill establishes a fine at a rate of 15% of the unpaid assessment (or a minimum of \$50) and an interest charge of 6% per year on any amounts owed as the result of an audit. Under current law, the

treasurer can only charge interest at 15%, although in practice this is considered a fine. For self-insured employers, interest accrues 30 days after notice from the fund of the unpaid audit assessment. For insurance companies, the interest accrues from the date of the notice of audit errors or deficiencies.

Any partial payments made to the fund must first be applied to any unpaid penalty, then to any unpaid interest, and the remainder, if any, to the unpaid assessment. Interest or penalties will be applied if the fund receives assessment reports or payments after the designated due date.

### **INSURANCE CARRIER RESPONSIBILITIES (SEC. 8)**

For insured employers, the bill makes their insurers responsible for correct billing, timely collection, and timely payments to the fund. For insured employers, the SIFAP must be reported to the fund in the quarter the policy is effective, regardless of when the billing is sent or when the payment is made. Insurers must also report all endorsements, retrospective adjustments, and audits in the quarter the policy is issued. These requirements also apply to group self-insured employers.

### **STIPULATED AGREEMENTS AND SETTLEMENTS (SEC. 11)**

Under the bill, a workers' compensation commissioner may approve stipulated agreements (claim settlements) for benefits between an injured workers and the treasurer before an award or finding is issued against an employer, if the commissioner determines it is in the best interest of the injured worker. Notice of the proposed settlement must be sent to the employer. The commissioner must hold a hearing on the proposed settlement at the request of the employer in accordance with the workers' compensation law. If the employer does not file a written objection to the proposed settlement with the Workers' Compensation Commission within 28 days after the date of the settlement notice to the employer, then the employer is deemed to have consented to the settlement and may not later contest the settlement terms. The settlement and its payments will made by the fund in the event the employer is unable or fails to make such payments.

The bill also provides that none of its provisions, or those existing in current law, precludes the treasurer from entering into an agreement

with the employer for the reimbursement of expenses, costs, or benefits paid by the fund. The treasurer, the uninsured employer, the injured worker, or the injured worker's beneficiaries, or a liable third party may enter into a settlement agreement to finally or partially settle the rights and liabilities of any or all parties, subject to the approval of the commissioner.

**AWARDS AND UNINSURED EMPLOYERS (SEC. 11)**

Under the bill, when a finding and award of compensation has been made against an uninsured employer who fails to pay it, the Second Injury Fund must pay the compensation. If there are further claims for any related, reasonable, and necessary treatment, the fund must provide payment to the claimant without an additional finding and award.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 13    Nay 0