



General Assembly

January Session, 2005

Amendment

LCO No. 6214

SB0133606214SD0

Offered by:
SEN. PRAGUE, 19th Dist.

To: Subst. Senate Bill No. 1336 File No. 275 Cal. No. 231

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

1 Strike lines 395 to 425, inclusive, in their entirety and substitute the
2 following in lieu thereof:

3 "(3) "Paid losses" means the total indemnity, medical and any other
4 expenses, prior to any credits or deductions being taken, paid on or
5 after January 1, 2006, by or on behalf of an employer to or on behalf of
6 an injured employee. Paid losses includes all legal expenses paid for
7 the benefit of an injured worker in accordance with chapter 568 and
8 any loss payments within deductible limits on workers' compensation
9 policies.

10 (4) "Second Injury Fund Surcharge Base" means direct written
11 premium on policies prior to application of any deductible policy
12 premium credits.

13 (5) "Direct written premium" includes all endorsements,
14 retrospective adjustments, audits and minimum premium and shall be

15 determined without regard to when or whether the premium on the
16 policy is paid.

17 (6) "Second Injury Fund Surcharge" for insurance companies,
18 interlocal risk management agencies and self-insurance groups means
19 the rate set by the custodian multiplied by the Second Injury Fund
20 Surcharge Base.

21 (7) "Self-insurance group" means a not-for-profit association
22 consisting of fifteen or more employers who are engaged in the same
23 or similar type of business, who are members of the same bona fide
24 trade or professional association which has been in existence for not
25 less than five years, and who enter into agreements to pool their
26 liabilities for workers' compensation benefits and employers' liability.

27 (b) The State Treasurer, in consultation with the Insurance
28 Commissioner, [shall] may adopt regulations, in accordance with the
29 provisions of chapter 54, regarding the method of assessing all
30 employers for the liabilities of the Second Injury Fund. The liabilities
31 shall be allocated between self-insured employers and insured
32 employers based on a percentage of paid losses for the preceding
33 calendar year for each group. No credits shall be taken against paid
34 losses, except voided checks in connection with expenses paid under
35 chapter 568 previously reported as a paid loss, recoveries from third
36 party tortfeasors, reimbursement granted pursuant to section 31-299b
37 and Second Injury Fund reimbursements. The method of [assessing]
38 assessment for self-insured employers shall be based on paid losses.
39 The method of assessment for insured employers, [shall be a surcharge
40 based on premium] for policies with effective dates before July 1, 2006,
41 shall be based on the standard premium, and for policies with effective
42 dates on or after July 1, 2006, shall be based on the Second Injury Fund
43 Surcharge Base. In adopting regulations under this section, the State
44 Treasurer shall consider their effect upon (1) the cost of doing business
45 in this state, (2) the overall cost of the workers' compensation system,
46 (3) the effect of the regulations on insurers, insureds and self-insured
47 employers, and (4) the financial condition and liabilities of the fund."

48 Strike lines 445 to 481, inclusive, in their entirety and substitute the
49 following in lieu thereof:

50 "(d) (1) For insured employers and self-insurance groups, the
51 Second Injury Fund Surcharge Base shall initially be reported to the
52 fund in the quarter of the effective date of the policy, regardless of
53 when the policy is billed by the insurance carrier or self-insurance
54 group or paid by the policyholder or member of a self-insurance
55 group. All endorsements, retrospective adjustments and audits shall be
56 reported in the quarter processed by the insurance carrier or group
57 self-insured employer.

58 (2) The custodian of the fund shall conduct an audit or periodic
59 audits of any self-insured employer, group self-insured employer,
60 insured employer or insurance company acting as collection agent of
61 the Second Injury Fund relative to any information or payment
62 required by the custodian. The employer and insurer shall provide all
63 necessary documents and information in relation to an audit by the
64 custodian in a manner prescribed by the Treasurer. The period of
65 review of an audit shall be not more than three years, except that when
66 the date of the previous audit is less than three years prior to such
67 audit, the period of review shall be to the date of such prior audit. If
68 the audit determines repeated errors or underreporting by an
69 employer or an insurer acting as collection agent of the Second Injury
70 Fund, the fund reserves the right to audit an additional two-year
71 review period. Upon the determination of the Treasurer or the
72 Treasurer's agents, as a result of an audit, that an employer or an
73 insurer acting as collection agent of the Second Injury Fund has not
74 properly reported to the Second Injury Fund and, as a result, has
75 underpaid the assessment or surcharge, the employer or the insurer
76 acting as collection agent of the Second Injury Fund, upon notice from
77 the Treasurer or the Treasurer's agent, shall pay the full amount of the
78 underpaid assessment or surcharge, along with interest and any
79 penalty due not later than thirty days after such notice."

80 After line 481, insert the following:

81 "(e) For purposes of collection of the Second Injury Fund Surcharge
82 from insureds and payment of such surcharge to the Second Injury
83 Fund, insurance companies shall be deemed to be collection agents of
84 the Second Injury Fund. The insured employer is liable for payment of
85 the surcharge, and the insurance company shall collect such payment
86 and remit it to the Second Injury Fund in accordance with section 31-
87 354, as amended by this act. Insurance companies shall be subject to
88 the audit provisions of this section and shall be subject to the penalty
89 and interest provisions of this section for failure to remit the surcharge
90 to the Second Injury Fund."

91 Strike lines 497 to 595, inclusive, in their entirety and substitute the
92 following in lieu thereof:

93 "(a) There shall be a fund to be known as the Second Injury Fund.
94 Each employer, other than the state, shall, within thirty days after
95 notice given by the State Treasurer, pay to the State Treasurer for the
96 use of the state a sum in payment of his liability under this chapter
97 which shall be [the special assessment premium surcharge] calculated
98 in accordance with the Second Injury Fund Surcharge Base, as defined
99 in section 31-349g, as amended by this act, and shall be assessed in
100 accordance with subsection (f) of section 31-349, sections 31-349g, as
101 amended by this act, 31-349h and 31-349i, this section, section 31-354b
102 and sections 8 and 9 of public act 96-242*. Such sum shall be an
103 amount sufficient to (1) pay the debt service on state revenue bond
104 obligations authorized to be issued under and for the purposes set
105 forth in section 31-354b including reserve and covenant coverage
106 requirements, (2) provide for costs and expenses of operating the
107 Second Injury Fund, and (3) pay Second Injury Fund stipulations on
108 claims settled by the custodian or other benefits payable out of the
109 Second Injury Fund and not funded through state revenue bond
110 obligations and shall be determined in accordance with the regulations
111 adopted pursuant to the provisions of section 31-349g, as amended by
112 this act. The custodian shall establish a factor for the annual [special
113 assessment premium] surcharge that caps such surcharge for the fiscal
114 years ending June 30, 1996, 1997 and 1998. In determining such factor

115 the custodian shall consider the funding mechanism authorized by
116 subsection (f) of section 31-349, sections 31-349g, as amended by this
117 act, 31-349h and 31-349i, this section, section 31-354b and sections 8
118 and 9 of public act 96-242*, recognize that an acceptable level of
119 employer assessment is important to the vitality of the economy of the
120 state and nevertheless shall assure provision of services to injured
121 workers that enhances their ability to return to work and improve their
122 quality of life. In any event, such factor shall not exceed, with respect
123 to insured employers, a rate of fifteen per cent on the [standard
124 premiums] Second Injury Fund Surcharge Base with respect to
125 workers' compensation and employers' liability policies and, with
126 respect to self-insured employers, a comparable percentage limitation
127 representing their pro rata share of any [special] assessment. [premium
128 surcharge.] Any employer or any insurance company acting as
129 collection agent for the custodian of the Second Injury Fund who fails
130 to pay in accordance with such regulations shall pay [interest] a
131 penalty to the State Treasurer [on the sum at the rate] of fifteen per
132 cent [per annum from the date the sum should have been paid until
133 the date of payment] or a minimum of fifty dollars on the unpaid
134 assessment or surcharge. Interest at the rate of six per cent per annum
135 shall be charged on any amounts owed on assessment audits or
136 surcharge audits. For self-insured employers interest shall accrue
137 thirty days after notice from the Second Injury Fund of the unpaid
138 audit assessment. For insurance companies, the interest shall accrue
139 from the date of the notice of audit errors or deficiencies as determined
140 by the date postmarked by the United States Postal Service. The State
141 Treasurer shall notify each employer of the penalty or interest
142 provision with the notice of assessment. [Effective July 1, 1993,
143 whenever the assessment is levied, the State Treasurer shall pay to the
144 fund, on behalf of the state, a sum not to exceed the total amount of
145 money expended by the fund on behalf of state employees during the
146 period following the last assessment.] Any partial payments made to
147 the fund shall be first applied to any unpaid penalty, then to any
148 unpaid interest and the remainder, if any, to the unpaid assessment or
149 surcharge. Interest or penalties shall be applied if assessment or

150 surcharge reports or payments are postmarked by the United States
151 Postal Service after the designated due date. The sums received shall
152 be accounted for separately and apart from all other state moneys and
153 the faith and credit of the state of Connecticut is pledged for their
154 safekeeping. The State Treasurer shall be the custodian of the fund and
155 all disbursements from the fund shall be made by [him or his] the
156 Treasurer or the Treasurer's deputies. The moneys of the fund shall be
157 invested by [him] the Treasurer in accordance with applicable law and
158 section 8 of public act 96-242*. Interest, income and dividends from the
159 investments shall be credited to the fund. Each employer, each private
160 insurance carrier acting on behalf of any employer and each interlocal
161 risk management agency acting on behalf of any employer shall
162 annually, on or before April first, report to the State Treasurer, in the
163 form prescribed by the State Treasurer, the amount of money
164 expended by or on behalf of the employer in payments for the
165 preceding calendar year. Each private insurance carrier, each self-
166 insurance group and each interlocal risk management agency shall
167 submit annually, on or before April first, to the State Treasurer, in the
168 form prescribed by the State Treasurer, a report of the total [standard
169 earned premium] Second Injury Fund Surcharge Base collected in the
170 preceding calendar year and a report of the projected total [standard
171 earned premium] Second Injury Fund Surcharge Base for the current
172 calendar year. The fund shall be used to provide the benefits set forth
173 in section 31-306, as amended by this act, for adjustments in the
174 compensation rate and payment of certain death benefits, in section 31-
175 307b, as amended by this act, for adjustments where there are relapses
176 after a return to work, in section 31-307c for totally disabled persons
177 injured prior to October 1, 1953, in section 31-349 for disabled or
178 handicapped employees and in section 31-355, as amended by this act,
179 for the payment of benefits due injured employees whose employers
180 or insurance carriers have failed to pay the compensation, and medical
181 expenses required by this chapter, or any other compensation payable
182 from the fund as may be required by any provision contained in this
183 chapter or any other statute and to reimburse employers or insurance
184 carriers for payments made under subsection (b) of section 31-307a, as

185 amended by this act. The assessment required by this section is a
186 condition of doing business in this state and failure to pay the
187 assessment, when due, shall result in the denial of the privilege of
188 doing business in this state or to self-insure under section 31-284. Any
189 administrative or other costs or expenses incurred by the State
190 Treasurer in connection with carrying out the provisions of this part,
191 including the hiring of necessary employees, shall be paid from the
192 fund. The State Treasurer may adopt regulations, in accordance with
193 the provisions of chapter 54, prescribing the practices, policies and
194 procedures to be followed in the administration of the Second Injury
195 Fund."