

House of Representatives, April 1, 1998. The Committee on Labor and Public Employees reported through REP. DONOVAN, 84th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING WORKERS' COMPENSATION PREMIUM DISCOUNTS FOR WORKPLACES WITH EMPLOYEE ASSISTANCE PROGRAMS.

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

1 Section 1. (NEW) As used this act, unless the
2 context otherwise requires:

3 (1) "Employer" means any person, corporation,
4 limited liability company, firm, partnership,
5 voluntary association or joint stock association,
6 but excludes the state or any political
7 subdivision thereof;

8 (2) "Employee" means any person engaged in
9 service to an employer in a business of his
10 employer;

11 (3) "Employee assistance program" means a
12 program designed to assist in the identification
13 and resolution of job performance problems
14 associated with employees impaired by personal
15 concerns, including, but not limited to, (A)
16 consultation and training, (B) professional,
17 confidential, appropriate and timely problem
18 assessment services, (C) short-term problem
19 resolution, (D) referrals for appropriate
20 diagnosis, treatment and assistance, (E) follow-up

21 and monitoring, (F) employee education, and (G)
22 quality assurance.

23 Sec. 2. (NEW) (a) Each employer that
24 implements an employee assistance program on or
25 after July 1, 1998, that is substantially in
26 compliance with the requirements of this act, as
27 determined by the Insurance Commissioner, shall
28 qualify for a five per cent premium discount on
29 the employer's workers' compensation insurance
30 policy.

31 (b) Each insurer that issues or renews a
32 workers' compensation insurance policy in this
33 state on or after July 1, 1998, shall apply a five
34 per cent premium discount to each such policy for
35 a period not to exceed four years, provided the
36 insured has (1) established an employee assistance
37 program on or after July 1, 1998, that is
38 substantially in compliance with the requirements
39 of this act, as determined by the Insurance
40 Commissioner, (2) been certified by the Insurance
41 Commissioner to receive said premium discount, and
42 (3) notified the insurer, in writing, of the
43 certification.

44 (c) (1) The premium discount provided
45 pursuant to this act shall be applied to an
46 insured's policy of workers' compensation
47 insurance pro rata as of the date the Insurance
48 Commissioner certifies that the insured has
49 substantially complied with the requirements of
50 this act, and shall continue for a period not to
51 exceed four years. Certification of an insured
52 shall be required for each of the four years in
53 which the five per cent premium discount is
54 granted. Thereafter, any premium discount granted
55 pursuant to this section shall be determined from
56 the insured's experience rating plan, or in the
57 case of an insured not rated upon experience, as
58 provided in subdivision (2) of this subsection.
59 Notwithstanding the provisions of this
60 subdivision, an insurer shall not be required to
61 credit the actual amount of the premium discount
62 to the account of the insured until the final
63 premium audit under the policy.

64 (2) The amount of any premium discount
65 granted after the initial four-year period
66 referenced in subdivision (1) of this subsection
67 to an insured that is not rated upon experience
68 shall be determined by the Insurance Commissioner

69 based upon data received from a rating
70 organization licensed pursuant to section 38a-672
71 of the general statutes.

72 (d) If the Insurance Commissioner determines
73 that an employer who has received a premium
74 discount under this act has misrepresented its
75 compliance with the requirements of this act, the
76 employer's workers' compensation insurance policy
77 shall be subject to an additional premium in an
78 amount sufficient to reimburse the insurer for the
79 full amount of the previously granted premium
80 discount. The policy shall also be subject to
81 cancellation in accordance with the terms of the
82 policy.

83 (e) Each insurer of workers' compensation
84 insurance coverage shall make an annual report to
85 the rating organization licensed pursuant to
86 section 38a-672 of the general statutes,
87 illustrating the total dollar amount of employee
88 assistance program premium credits granted
89 pursuant to this act. Standard earned premium
90 figures reported pursuant to this subsection on
91 the aggregate calls for experience shall reflect
92 the effects of the credits. The net standard
93 premium shall then serve as the basis of any
94 premium adjustment. The employee assistance
95 program credits shall be reported under a unique
96 classification code or unit statistical reports
97 submitted to the rating organization.

98 Sec. 3. (NEW) (a) An employee assistance
99 program shall contain all the following elements
100 in order to qualify an employer for the premium
101 discount provided pursuant to this act:

102 (1) A statement advising an employee of the
103 employer's employee assistance program, as well as
104 the employer's resource file of assistance
105 programs and other persons, entities or
106 organizations designed to assist employees with
107 personal or behavioral problems;

108 (2) Resources of employee assistance
109 providers maintained in accordance with subsection
110 (b) of section 4 of this act;

111 (3) Employee education programs in accordance
112 with section 5 of this act; and

113 (4) Supervisor training in accordance with
114 section 5 of this act.

115 Sec. 4. (NEW) (a) Each employer that has an
116 employee assistance program shall: (1) Inform its

117 employees of the benefits and services of the
118 employee assistance program, (2) provide its
119 employees with notice of the policies and
120 procedures regarding access to and utilization of
121 the program, and (3) provide its employees with a
122 written policy statement from the employer
123 concerning the confidentiality of the program.

124 (b) Each employer that has an employee
125 assistance program shall maintain a resource file
126 of providers of other employee assistance,
127 including drug and alcohol abuse programs, mental
128 health providers and other persons, entities or
129 organizations available to assist employees with
130 personal or behavioral problems, and shall notify
131 its employees of the availability of the resource
132 file. In addition, the employer shall post in a
133 conspicuous place a listing of providers of
134 employee assistance in the area.

135 Sec. 5. (NEW) (a) Each employer that has an
136 employee assistance program shall provide its
137 employees with a semiannual educational program on
138 substance abuse and its effects on the workplace.
139 Such program, for a minimum of one hour, shall
140 include, but not be limited to, the following
141 information:

142 (1) The explanation of the disease model of
143 addiction for alcohol and drugs;

144 (2) The effects and dangers of commonly
145 abused substances in the workplace;

146 (3) The employer's policies and procedures
147 regarding substance abuse in the workplace; and

148 (4) An explanation about how employees may
149 obtain substance abuse treatment under the
150 employee assistance program.

151 (b) In addition to the educational program
152 provided pursuant to subsection (a) of this
153 section, an employer shall provide all supervisory
154 personnel with a minimum of two hours of training,
155 which shall include, but not be limited to, the
156 following information:

157 (1) How to recognize signs of employee
158 substance abuse;

159 (2) How to document and corroborate signs of
160 employee substance abuse; and

161 (3) How to refer employees suspected of
162 substance abuse to the proper treatment providers.

163 Sec. 6. (NEW) The Insurance Commissioner
164 shall adopt regulations, in accordance with

165 chapter 54 of the general statutes, to carry out
166 the purposes of this act. The regulations shall
167 include procedures and forms for the certification
168 of employers that establish and maintain employee
169 assistance programs in compliance with the
170 requirements of this act. The regulations shall
171 require annual certification by employers in order
172 to receive the premium discount provided pursuant
173 to this act.

174 Sec. 7. This act shall take effect July 1,
175 1998.

176 LAB COMMITTEE VOTE: YEA 7 NAY 6 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5254

STATE IMPACT Cost (Insurance Fund), see below

MUNICIPAL IMPACT None

STATE AGENCY(S) Department of Insurance

	Current FY	1998-99	1999-2000
State Cost (savings)	:	:	:
	:	68,000	63,000
St Revenue (loss)	:	:	:
	:	:	:
Net St Cost (savings)	:	:	:
	:	:	:
Municipal Impact	:	:	:
	:	:	:

EXPLANATION OF ESTIMATES:

The bill specifies that private employers that implement an employee assistance program (EAP) on or after July, 1998 will get a 5% premium discount on workers' compensation insurance if the plan complies with requirements of this act.

The Department of Insurance will be required to certify that the employee assistance plans meet the requirements of the act. Some of these requirements include:

1. A statement advising employees of the EAP and the availability of the employer's resource file of programs to help employees with personal or behavioral problems;
2. A resource file of alcohol and drug abuse programs; and
3. A semi-annual employee program on substance abuse.

To certify private employers, the Department of Insurance would require an Insurance Examiner position at a salary of around \$45,000 per year and fringe benefits. Equipment in the amount of \$5,000 would be required for this examiner in the fiscal year 1998-99.

There will also be a workload increase for the Department of Insurance associated with the discovery that employers have misrepresented compliance with the requirements of the act. Reviews of compliance and possible hearings could result.

The department must also adopt regulations.

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OLR BILL ANALYSIS

SHB 5254

AN ACT CONCERNING WORKERS' COMPENSATION PREMIUM DISCOUNTS FOR WORKPLACES WITH EMPLOYEE ASSISTANCE PROGRAMS

SUMMARY: This bill grants 5% discounts on workers' compensation insurance premiums for four years to private employers who, after June 30, 1998, set up an employee assistance program (EAP) which the Insurance Commissioner certifies substantially complies with the bill's mandates for EAPs, such as having an employee education program and a resource file of other service providers. The bill requires the commissioner to adopt regulations setting certification forms and procedures. After the four years, the amount of any discount will depend on factors described in the bill, such as an employer's experience and previously authorized discounts.

EFFECTIVE DATE: July 1, 1998

FURTHER EXPLANATION

EAPs

The bill requires an EAP to contain all these elements for an employer to qualify for the 5% discount in the first four years:

1. a statement advising employees of the EAP and the availability of the employer's resource file of programs, people, and entities to help employees with personal or behavioral problems;
2. a resource file of alcohol and drug abuse programs, mental health providers, and other people and entities available to assist with personal and behavioral problems;
3. a semi-annual employee education program on substance abuse, with at least one hour on:
 - a. the disease model of addiction for drugs and alcohol,
 - b. effects and dangers of commonly abused substances in the workplace,
 - c. the employer's substance abuse policies and procedures, and
 - d. an explanation of how employees can get substance abuse treatment under the EAP;
4. two additional hours of training for supervisors covering:
 - a. recognizing, documenting, and confirming signs of abuse and
 - b. how to refer suspected abusers to proper treatment providers; and
5. a conspicuously posted list of area providers of employee assistance.

Also, the bill requires employers to inform employees of the EAP's benefits and services, provide them with notice of policies for using the program, and give them a written statement concerning the EAP's confidentiality. These requirements are not tied to certification.

The commissioner's certification would not be needed after four years, but the EAP would still have to contain the required elements.

The bill defines an EAP as a program that helps identify and resolve job performance problems of employees impaired by personal concerns through consultation and training; professional, confidential, and appropriate assessment services; short-term problem resolution; referrals for diagnosis and treatment; follow-up and monitoring; and quality assurance.

Discounts

The 5% discounts apply to the employer's workers' compensation premium for four years starting when the insurance commissioner certifies the EAP to receive the discount, as long as the employer gives the insurer written notice of the certification. Annual certification is needed for the discounts.

After four years, the amount of a discount is determined from an employer's experience rating plan or, for non-experience rated employers, by the commissioner based on data from an organization licensed to file workers' compensation insurance rates on behalf of employers. Insurers must annually report to such an organization the amount of credits granted for EAPs, distinctly identifying the amount. They must calculate the amount by using earned premiums (a premium paid one year in advance is half-earned by the insurer after six months) and claims paid. An employer's premium prior to previous discounts serves as the standard for any further premium discounts.

Insurers are not required to credit the discounts until after a final audit of the employer's account. An employer is liable for repaying the insurer for amounts previously discounted if the insurance commissioner determines it received a discount by misrepresenting compliance, and the insurer may cancel the policy.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute
Yea 7 Nay 6