

**STATE and
STATUTORY PUBLIC ENTITY
FISCAL IMPACT**

Drafting Number: LLS 14-0393
Prime Sponsor(s): Rep. Swalm
 Sen. Jahn

Date: February 25, 2014
Bill Status: House Business, Labor, Economic,
 and Workforce Development
Fiscal Analyst: Clare Pramuk (303-866-2677)

SHORT TITLE: ACCURATE EXPERIENCE MODIFICATION WORKERS' COMP

| Fiscal Impact Summary* | FY 2014-2015 | FY 2015-2016 |
|--------------------------------------|----------------------------|---------------------|
| State Revenue | | |
| State Expenditures | Minimum workload increase. | |
| FTE Position Change | | |
| Appropriation Required: None. | | |

** This summary shows changes from current law under the bill for each fiscal year.*

Summary of Legislation

Workers' compensation insurance premiums for employers are adjusted by experience modification factors based on an employer's previous three years of losses due to workplace injuries. Experience modification factors are calculated by an authorized rating organization that collects claims information from insurance companies. This bill requires insurance companies, including Pinnacol Assurance (Pinnacol), to submit revised claim information when:

- a claim closed during the policy year for an amount less than the amount paid plus reserves; or
- the insurance company recovered moneys through subrogation after the claim closed.

The authorized rating organization has 30 days after receipt of the updated information to revise the experience modification factor. Insurance companies are required to credit employers for premium reductions that occur as a result of applying the revised experience modification factor.

Background

Pinnacol is a political subdivision of the state that operates as a mutual insurance company. It provides workers' compensation insurance to approximately 55,000 Colorado employers covering 864,000 employees and processed 45,000 claims in 2012. Pinnacol is prohibited by law in most cases from refusing to insure any Colorado employer. It is administered by a board of directors appointed by the Governor with the consent of the Senate. Pinnacol is funded through employer premiums and receives no state funding.

Worker's compensation claim information is submitted according to the National Council on Compensation Insurance (NCCI) guidelines to the NCCI which then calculates the experience modification factor for experience-rated employers. Reporting on a workers' compensation policy begins six months after the policy ends, and annually thereafter for the lesser of six reports, or until all claims are closed. Closed claim totals reflect paid losses plus reserves. The experience modification factor calculation process essentially operates between the insurance carrier and the NCCI with state involvement primarily in rare instances of complaints.

State Expenditures

The Division of Insurance (DOI) in the Department of Regulatory Agencies has regulatory authority over workers' compensation insurance carriers. Part of the DOI workload includes market conduct examinations. Under the bill, a market conduct exam will need to address whether insurance companies are reporting their closed claim amounts accurately. This represents a minimal increase in workload and does not require new appropriations.

Statutory Public Entity Impact

Because the bill changes reporting requirements, Pinnacol is expected to have increased costs to modify its computer system to report claims to the NCCI. Pinnacol underwriting costs will increase for staff to review revised experience modification factors, recalculate premiums, and provide refunds to businesses. Based on an analysis of closed claims, it appears that approximately 4,200 claims were closed for an amount less than the amount paid plus reserves and would be subject to the bill. Assuming 4,200 claims would need to be revised annually, administrative costs are expected to be in excess of \$100,000, or about \$24 per experience modification factor. The fiscal note assumes that these expenditures would be recovered through increased rates to all policyholders. This amount does not include the amount of premiums that will be refunded for policies with lower experience modification factors.

Technical or Mechanical Defects

The bill requires that an insurance carrier notify the NCCI within 30 days if a claim closed during the policy year for an amount less than the amount paid plus reserves. As noted above, the first reporting of claims occurs six months after the expiration of the policy, and claims information is not used in the experience modifier until then. Reporting to the NCCI prior to this time would require a new reporting procedure both for companies and the NCCI. Although the bill requires that the NCCI revise the experience modifier within 30 days after receipt of the information, an active policy is not included in the experience rating formula. As a result, NCCI would not be able to apply the revised information until at least six months after the policy has expired.

To correct this issue, the bill could be amended as follows:

- Page 2, line 16, after "subrogation claim," insert "if the claim has already been reported to the rating organization. If the claim has not been reported to the rating organization, the claim shall reflect the actual dollar amount paid at the next scheduled reporting date"; and
- Page 2, delete lines 18 and 19.

Effective Date

The bill takes effect July 1, 2014, and applies to all claims closed on or after that date.

State and Local Government Contacts

Labor and Employment

Pinnacol Assurance

Regulatory Agencies