

7505

2015-2016 Regular Sessions

I N   A S S E M B L Y

May 13, 2015

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Introduced by M. of A. SIMON, TITUS -- (at request of the State Comptroller) -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to eliminating certain unconstitutional language relating to the pre-audit of expenditures from the state insurance fund by the state comptroller

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 88 of the workers' compensation law, as amended by  
2     chapter 6 of the laws of 2007, is amended to read as follows:  
3     S 88. Administration expenses. The entire expense of administering the  
4     state insurance fund shall be paid out of such fund WHICH SHALL NOT BE  
5     CONSIDERED AN AGENCY OR A FUND OF THE STATE FOR THE PURPOSES OF SECTION  
6     FOUR OF THE STATE FINANCE LAW. The portion of such expenses applicable  
7     and chargeable to the disability benefits fund [and the medical and  
8     hospital malpractice fund] shall be determined on an equitable basis  
9     with due allowance for the division of overhead expenses. Not later than  
10    the first day of November there shall be submitted to the director of  
11    the budget for his approval an estimated budget of expenditures for the  
12    succeeding calendar year having due regard to the business interests and  
13    contract obligations of the fund. There may not be expended for the  
14    state insurance fund for purposes of administration more than the  
15    amounts specified in such budget for each item of expenditure, except as  
16    authorized by the director of the budget. THERE SHALL BE SUBMITTED TO  
17    THE DIRECTOR OF THE BUDGET QUARTERLY FINANCIAL STATEMENTS ON A CALENDAR  
18    YEAR BASIS. In no case shall the amount of ADMINISTRATIVE expenditures  
19    so authorized for an entire year [for] FROM THE workers' compensation  
20    [insurance] FUND exceed twenty-five per centum of the earned premiums  
21    for such insurance for that year. In no case shall the amount of ADMIN-  
22    ISTRATIVE expenditures authorized for the disability benefits fund for  
23    an entire year exceed twenty-five per centum of the premiums earned by  
24    that fund FOR SUCH INSURANCE FOR THAT YEAR. [In no case shall the amount

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 of expenditures authorized for the medical and hospital malpractice fund  
2 for an entire year exceed twenty-five per centum of the premiums earned  
3 by that fund.] If there be officers or employees of the department whose  
4 duties relate partly to the general work of the department and partly to  
5 the work of the state insurance fund, and in case there is other expense  
6 which is incurred jointly on behalf of the general work of the depart-  
7 ment and the state insurance fund, an equitable apportionment of the  
8 expense shall be made and the part thereof which is applicable to the  
9 state insurance fund shall be chargeable thereto. The expenses of the  
10 department of audit and control incurred in connection with the pre-au-  
11 dit of expenditures of the state insurance fund, as required by section  
12 one hundred eleven of the state finance law, shall be a charge against  
13 and be paid out of the moneys of the state insurance fund and there  
14 shall be included in the annual estimate submitted pursuant to this  
15 section an amount sufficient to pay such expenses for the period covered  
16 by such estimate. Notwithstanding section four of the state finance law,  
17 the state comptroller is authorized to process or approve payments  
18 related to business taxes, various workers' compensation board assess-  
19 ments and assessments related to the workers' compensation rating board  
20 directly from the fund's accounts without explicit appropriation author-  
21 ity. The commissioner of labor shall include in his annual report to the  
22 legislature a statement of the commissioners showing the expense of  
23 administering the state fund for the preceding year. All appointments to  
24 positions in the state insurance fund shall be made subject to civil  
25 service requirements.

26 S 2. Section 88 of the workers' compensation law, as amended by chap-  
27 ter 635 of the laws of 1996, is amended to read as follows:

28 [S 88. Administration expenses. The entire expense of administering  
29 the state insurance fund shall be paid out of such fund which shall not  
30 be considered an agency or a fund of the state for the purposes of  
31 section four of the state finance law. The portion of such expenses  
32 applicable and chargeable to the disability benefits fund shall be  
33 determined on an equitable basis with due allowance for the division of  
34 overhead expenses. There shall be submitted to the director of the budg-  
35 et quarterly financial statements on a calendar year basis. In no case  
36 shall the amount of administrative expenditures so authorized for an  
37 entire year from the workers' compensation fund exceed twenty-five per  
38 centum of the earned premiums for such insurance for that year. In no  
39 case shall the amount of administrative expenditures authorized for the  
40 disability benefits fund for an entire year exceed twenty-five per  
41 centum of the premiums earned by that fund for such insurance for that  
42 year. No payment, expenditure or refund out of the state insurance fund  
43 shall be subject to pre-audit by the department of audit and control as  
44 provided by section one hundred eleven of the state finance law. All  
45 appointments to positions in the state insurance fund shall be made  
46 subject to civil service requirements.]

47 S 3. This act shall take effect immediately; provided, however that  
48 section one of this act shall be deemed to have been in full force and  
49 effect on and after April 1, 1996.