

4925

2015-2016 Regular Sessions

I N S E N A T E

April 23, 2015

Introduced by Sen. SEWARD -- (at request of the State Comptroller) --
read twice and ordered printed, and when printed to be committed to
the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to eliminat-
ing 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 ASSEM-
BLY, 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

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

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1 that fund FOR SUCH INSURANCE FOR THAT YEAR. [In no case shall the amount
2 of expenditures authorized for the medical and hospital malpractice fund
3 for an entire year exceed twenty-five per centum of the premiums earned
4 by that fund.] If there be officers or employees of the department whose
5 duties relate partly to the general work of the department and partly to
6 the work of the state insurance fund, and in case there is other expense
7 which is incurred jointly on behalf of the general work of the depart-
8 ment and the state insurance fund, an equitable apportionment of the
9 expense shall be made and the part thereof which is applicable to the
10 state insurance fund shall be chargeable thereto. The expenses of the
11 department of audit and control incurred in connection with the pre-au-
12 dit of expenditures of the state insurance fund, as required by section
13 one hundred eleven of the state finance law, shall be a charge against
14 and be paid out of the moneys of the state insurance fund and there
15 shall be included in the annual estimate submitted pursuant to this
16 section an amount sufficient to pay such expenses for the period covered
17 by such estimate. Notwithstanding section four of the state finance law,
18 the state comptroller is authorized to process or approve payments
19 related to business taxes, various workers' compensation board assess-
20 ments and assessments related to the workers' compensation rating board
21 directly from the fund's accounts without explicit appropriation author-
22 ity. The commissioner of labor shall include in his annual report to the
23 legislature a statement of the commissioners showing the expense of
24 administering the state fund for the preceding year. All appointments to
25 positions in the state insurance fund shall be made subject to civil
26 service requirements.

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

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

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