S T A T E O F N E W Y O R K

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 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:

Section 1. Section 88 of the workers' compensation law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

S 88. Administration expenses. The entire expense of administering the state insurance fund shall be paid out of such fund WHICH SHALL NOT BE CONSIDERED AN AGENCY OR A FUND OF THE STATE FOR THE PURPOSES OF SECTION FOUR OF THE STATE FINANCE LAW. The portion of such expenses applicable and chargeable to the disability benefits fund [and the medical and hospital malpractice fund] shall be determined on an equitable basis with due allowance for the division of overhead expenses. Not later than the first day of November there shall be submitted to the director of the budget for his approval an estimated budget of expenditures for the succeeding calendar year having due regard to the business interests and contract obligations of the fund. There may not be expended for the state insurance fund for purposes of administration more than the amounts specified in such budget for each item of expenditure, except as authorized by the director of the budget. THERE SHALL BE SUBMITTED TO THE DIRECTOR OF THE BUDGET QUARTERLY FINANCIAL STATEMENTS ON A CALENDAR YEAR BASIS. In no case shall the amount of ADMINISTRATIVE expenditures so authorized for an entire year [for] FROM THE workers' compensation [insurance] FUND exceed twenty-five per centum of the earned premiums for such insurance for that year. In no case shall the amount of ADMINISTRATIVE expenditures authorized for the disability benefits fund for 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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that fund FOR SUCH INSURANCE FOR THAT YEAR. [In no case shall the amount of expenditures authorized for the medical and hospital malpractice fund for an entire year exceed twenty-five per centum of the premiums earned by that fund.] If there be officers or employees of the department whose duties relate partly to the general work of the department and partly to the work of the state insurance fund, and in case there is other expense which is incurred jointly on behalf of the general work of the department and the state insurance fund, an equitable apportionment of the expense shall be made and the part thereof which is applicable to the state insurance fund shall be chargeable thereto. The expenses of the department of audit and control incurred in connection with the pre-audit of expenditures of the state insurance fund, as required by section one hundred eleven of the state finance law, shall be a charge against and be paid out of the moneys of the state insurance fund and there shall be included in the annual estimate submitted pursuant to this section an amount sufficient to pay such expenses for the period covered by such estimate. Notwithstanding section four of the state finance law, the state comptroller is authorized to process or approve payments related to business taxes, various workers' compensation board assessments and assessments related to the workers' compensation rating board directly from the fund's accounts without explicit appropriation authority. The commissioner of labor shall include in his annual report to the legislature a statement of the commissioners showing the expense of administering the state fund for the preceding year. All appointments to positions in the state insurance fund shall be made subject to civil service requirements.

S 2. Section 88 of the workers' compensation law, as amended by chapter 635 of the laws of 1996, is amended to read as follows:

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

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