STATE OF NEW YORK

7950

2025-2026 Regular Sessions

IN SENATE

May 14, 2025

Introduced by Sen. BAILEY -- 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 establishing a fraud assessment commission and an assessment for workers' compensation fraud investigations; and to amend the state finance law, in relation to establishing the workers' compensation fraud investigation fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative intent. The legislature hereby finds that construction employers shave a significant amount off their labor costs through workers' compensation premium fraud. They do that by taking advantage of workers' compensation insurer practices that enable fraud.

Employer workers' compensation premium fraud is costing insurers $5 billion a year and it's costing law-abiding employers and their employees jobs. The Century Foundation hired economists to study and write a report on fraud in the U.S. construction industry that has detailed the impacts of these practices extensively; 10 to 19 percent of construction workers who should be treated as employees are not. That's 1.1 to 2.1 million workers, ultimately resulting in $10 billion or more in unpaid federal and state taxes.

The legislature finds that New York state must generate additional resources to ensure that the workers' compensation fraud inspector general and local prosecutors have the resources available to investigate and prosecute workers' compensation fraud cases and cases relating to the willful failure to secure the payment of workers' compensation. This will help combat broader rampant wage theft throughout the construction industry.

§ 2. The workers' compensation law is amended by adding two new sections 151-a and 151-b to read as follows:

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

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§ 151-a. Fraud assessment commission. There is hereby established a fraud assessment commission, which shall consist of nine members appointed by the governor as follows: three members from a bona fide labor organization, two members from self-insured employers, two members from insured employers, and two members from insurers. The term of office shall be four years, and a member shall hold office until the appointment of a successor. The chair of the workers' compensation board, the commissioner of labor, and the workers' compensation fraud inspector general shall be ex officio voting members of the commission.

§ 151-b. Assessment for workers' compensation fraud investigations. To fund the investigation and prosecution of workers' compensation fraud, willful failure to secure payment of workers' compensation punishable under section fifty-two of this chapter, and failure to keep true and accurate records as required under section one hundred thirty-one of this chapter, the chair of the workers' compensation board, in consultation with the workers' compensation fraud inspector general and the fraud assessment commission shall establish, by the first day of November, two thousand twenty-five, and annually thereafter, an assessment for workers' compensation fraud investigations which shall be borne by affected employers securing compensation for their employees pursuant to section fifty of this chapter. The assessment for workers' compensation fraud investigations shall be in addition to assessments for annual expenses established in section one hundred fifty-one of this article. All assessments collected pursuant to this section shall be credited to the workers' compensation fraud investigation fund under section ninety-nine-tt of the state finance law and shall be available for the uses and purposes of such fund.

§ 3. The state finance law is amended by adding a new section 99-tt to read as follows:

§ 99-tt. Workers' compensation fraud investigation fund. 1. There is hereby established in the joint custody of the chair of the workers' compensation board, the commissioner of labor, and the comptroller a special fund to be known as the "workers' compensation fraud investigation fund".

2. Such fund shall consist of monies received from the imposition of the assessment for workers' compensation fraud investigations pursuant to section one hundred fifty-one-b of the workers' compensation law, and all other monies appropriated, credited, or transferred thereto from any other fund or source pursuant to law.

3. Monies in the fund, pursuant to appropriation by the legislature, issuance of a certificate of availability by the director of the budget, and a determination by the chair of the workers' compensation board in consultation with the workers' compensation fraud inspector general, with the advice and consent of the fraud assessment commission as to the most effective distribution of monies, may be made available for purposes of the investigation and prosecution of workers' compensation fraud cases, cases relating to the willful failure to secure the payment of workers' compensation, and cases relating to the failure to keep true and accurate records.

4. At least fifty percent of the workers' compensation fraud investigation fund established pursuant to this section shall be distributed to district attorneys for purposes of the investigation and prosecution of workers' compensation fraud cases, cases relating to the willful failure to secure the payment of workers' compensation, and cases relating to the failure to keep true and accurate records. If a district attorney is determined by the chair of the workers' compensation board or the work-

ers' compensation fraud inspector general to be unwilling or unable to investigate and prosecute workers' compensation fraud claims, claims relating to the willful failure to secure the payment of workers' compensation, or claims relating to the failure to keep true and accurate records, the commissioner of labor shall discontinue distribution of funds allocated for such county and may redistribute such funds according to this section.

5. Monies shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of labor.

6. Monies in the workers' compensation fraud investigation fund shall be kept separate and shall not be commingled with any other monies in the custody of the chair of the workers' compensation board, the commissioner of labor and/or the comptroller.

7. To the extent practicable, the commissioner of labor shall ensure that all monies received during a fiscal year are expended prior to the end of such fiscal year.

8. By the thirtieth day of June, two thousand twenty-five, and annually thereafter, the chair of the workers' compensation board, in consultation with the workers' compensation fraud inspector general or the fraud assessment commission, shall develop and release a request for proposals and application process for the funds outlined in this section.

9. The fraud assessment commission shall provide quarterly reports to the speaker of the assembly, the temporary president of the senate, the chair of the senate finance committee and the chair of the assembly ways and means committee, on the receipts and distributions of the workers' compensation investigation fund, including an itemization of such receipts and disbursements, the historical and projected expenditures, and the projected fund balance.

§ 4. This act shall take effect immediately.