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SENATE BILL 401

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Cliff R. Pirtle

AN ACT

RELATING TO WORKERS' COMPENSATION INSURANCE RATES; REQUIRING THAT PREMIUM RATES SHALL NOT EXCEED FOUR PERCENT OF THE WAGES PAID BY AN EMPLOYER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 59A-17-8 NMSA 1978 (being Laws 1984, Chapter 127, Section 304, as amended) is amended to read:

"59A-17-8. MAKING OF RATES--WORKERS' COMPENSATION--RATE CALCULATIONS--RATE CLASSIFICATIONS--LIMITATION.--

A. A workers' compensation insurer shall adhere to a uniform classification system and uniform experience rating system filed with the superintendent by an advisory organization designated by the superintendent.

B. A workers' compensation insurer shall report its experience in accordance with the statistical plans and other

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1 reporting requirements in use by the advisory organization  
2 designated by the superintendent.

3 C. Workers' compensation premium rates shall be  
4 ~~[equalized and] calculated [on a basis that does not~~  
5 ~~discriminate against or penalize employers who pay higher wages~~  
6 ~~than other employers to workers in the same job classification.~~  
7 ~~The legislature finds that calculating workers' compensation~~  
8 ~~premium rates strictly] on the basis of an employer's wages~~  
9 ~~paid [discriminates against and penalizes higher-paying~~  
10 ~~employers. The legislature accordingly directs that the~~  
11 ~~superintendent shall:~~

12 (1) ~~investigate alternatives to the current~~  
13 ~~method of computing workers' compensation premiums, including~~  
14 ~~but not limited to:~~

15 (a) ~~split classification;~~

16 (b) ~~payroll cap;~~

17 (c) ~~hours worked; and~~

18 (d) ~~premium credits;~~

19 (2) ~~immediately conduct hearings on the issue,~~  
20 ~~including consideration of other alternatives; and~~

21 (3) ~~adopt regulations, to become effective no~~  
22 ~~later than April 1, 1991, to equalize the workers' compensation~~  
23 ~~premium rates employers must pay for workers who perform the~~  
24 ~~same job]; provided that the rates shall not exceed four~~  
25 ~~percent of the wages paid. Nothing in this subsection shall be~~

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1 construed to prohibit the use of experience rating or scheduled  
2 credits.

3 D. A workers' compensation insurer may develop  
4 subclassifications of the uniform classification system upon  
5 which rates may be made. Such subclassifications and their  
6 filing shall be subject to all applicable provisions of the  
7 Insurance Rate Regulation Law. Data produced from such  
8 subclassifications shall be reported in accordance with the  
9 statistical plans, uniform classification system and experience  
10 rating system in use by the advisory organization designated by  
11 the superintendent.

12 E. Classification assignments may be changed within  
13 sixty days of the effective date or renewal date of the policy;  
14 provided that the employer is given reasonable prior notice of  
15 the proposed change in order to object; and provided further  
16 that the change is based upon an appropriate audit or  
17 investigation. The same provisions apply to initial  
18 classification assignments for new operations added by the  
19 employer so that they may be changed within sixty days of the  
20 date the classification assignments are initially established.  
21 No subsequent changes shall be made unless the insurer proves,  
22 after conducting an audit or investigation, that:

23 (1) there has been a substantial change in the  
24 nature of the work performed; or

25 (2) the initial assignment was in error due to

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1 withheld or inaccurate material information provided by the  
2 employer.

3 F. A workers' compensation insurer may develop  
4 rating plans that identify loss experience as a factor to be  
5 used. The rating plans and their filing shall be subject to  
6 all applicable provisions of the Insurance Rate Regulation Law.

7 G. The superintendent shall disapprove  
8 subclassifications, rating plans or other variations from  
9 supplementary rate information filed by a workers' compensation  
10 insurer if the insurer fails to demonstrate that the data  
11 produced can be reported consistent with the uniform  
12 classification system and experience rating system and in such  
13 a fashion so as to allow for the application of experience  
14 rating filed by the advisory organization designated by the  
15 superintendent."

16 SECTION 2. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2017.