F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	02/16/17		
SPONSOR	Pirtle	**LAST UPDATED**		**HB**	
SHORT TITLE	Workers' Comp Premium Rates			**SB**	401
				ANALYST	Klundt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Worker's Compensation Administration (WCA)

SUMMARY

Senate Bill 401 (SB 401) amends Section 59A-17-8 of the Insurance Code, which governs rate classifications and calculations for workers' compensation premiums. Under the bill, workers' premium rates shall be calculated on the basis of the employer's wages paid but caps those rates at 4 percent of wages paid.

FISCAL IMPLICATIONS

No fiscal impact has been identified at this time.

SIGNIFICANT ISSUES

The Worker's Compensation Administration (WCA) provided the following:

> New Mexico's workers' compensation insurance market is divided between the voluntary market and the residual market (sometimes called the market of last resort). Employers who are able to find coverage in the voluntary market – typically employers with a low number of claims and/or low claims' expense – are able to negotiate rates among insurers competing in the voluntary market. Employers who are not able to find coverage in the voluntary market must find coverage in the residual market. Rates in the residual market

are higher than rates in the voluntary market because these employers are typically high risk, meaning they have little claims experience or they have high number of claims or have had costly claims experience.

The Office of the Superintendent of Insurance approves premium rates in New Mexico for both the voluntary and residual market. Under the current system, employers' premiums are based on the code classification/s applicable to the work performed by the workers covered under the employer's policy. The more claims and the higher the claims cost in a given industry or occupation, the higher the premium rate for the code classification that applies to the industry or occupation. Premiums are calculated based on the rate of the applicable code classification per $100 of employers' payroll (i.e., a percentage of payroll based on the applicable rate). To illustrate, if the premium rate for a class code is $1.00 per $100.00 of payroll and the employer's payroll is $100,000, the employer's annual workers' compensation premium would be $1,000.00.

Under this system, higher risk industries (e.g. roofing) have a higher premium rate than lower risk industries (e.g. clerical office). According to information from the National Council on Compensation Insurance (NCCI), the highest rate in the residual market is $58.10 per $100 of payroll, or 58.10%; this rate applies to the code classification of "aviation-stunt flying, racing, or parachute jumping-flying." Other high risk industries, such as roofing, have a premium rate in the residual market of $31.80 per $100 of payroll, or a 31.8% premium rate. The premium rate for "farm-cattle or livestock raising" in the residual market is $14.47 per $100 of payroll, or a 14.47% rate. Conversely, for a lower risk code classification like "clerical office employees" the premium rate in the residual market is $0.55 per $100 of payroll, or about 0.55%.

Currently, premiums rates for the voluntary market in New Mexico are the 20th highest in the nation. Although a solution is needed to address very high rates for some industries and the disparity among rates for code classifications, capping premium rates for all industries at 4%, regardless of risk or claims experience, may lead to the following unintended consequences:

1) If premiums collected by insurers are capped at 4% of payroll, insurers may not collect enough in premiums in order to pay all claims as required by law.

2) Capping rates at a certain premium rate for $100 of payroll will disincentive high risk employers from implementing safety programs to protect their workers and control claims costs. The current rate making system is designed to encourage high risk employers to control costs and their insurance rates by keeping the number of accidents low and by bringing injured workers back to work in order to control costs of claims. If the amendment passes, high risk employers would no longer have that incentive because no matter how many workers get injured or how much claims might cost, the employer would never pay more in premium than the premium cap.

3) Setting a cap on rates may also impact insurers' willingness to write insurance in the voluntary market. Fewer carriers in the voluntary market means more employers will have to obtain coverage in the assigned risk pool, which currently has higher rates. There are only two insurers providing coverage in the assigned risk pool – New Mexico Mutual and Mountain States.

ADMINISTRATIVE IMPLICATIONS

The Office of the Superintendent of Insurance is currently responsible for setting rates.

ALTERNATIVES

WCA stated the following:

> Control workers' compensation premium rates by passing legislation to correct court decisions that disrupt the formulaic design of the system, encourage disputes between workers and employers, and increase costs to the system.

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