

(3) prior to the election authorized by section 27 and was a basic member shall remain a basic member notwithstanding the provisions of section 353.017, subdivision 1 to the contrary.

The reduced augmentation rates shall apply to persons who are already on deferred status as of December 31, 1980, as well as to persons who terminate public service thereafter, but shall have no effect on rates of augmentation for periods of deferral prior to December 31, 1980. The augmentation rate added to the elective state officers plan shall apply to persons who are already on deferred status as of the day prior to the effective date of section 15, as well as to persons who terminate public service thereafter.

Approved April 7, 1978.

CHAPTER 797-H.F.No.2236

An act relating to insurance; removing the limitation on the expense factor in setting workers' compensation insurance premiums; referring rates for expenses to the workers' compensation study commission; amending Minnesota Statutes 1976, Sections 176.132, Subdivision 2; 176.181, Subdivision 2; Minnesota Statutes, 1977 Supplement, Section 79.07; and Laws 1977, Chapter 342, Section 27, Subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes, 1977 Supplement, Section 79.07, is amended to read:

79.07 INSURANCE RATES. To provide for the solvency of insurers writing workers' compensation insurance in this state and to secure reasonable rates, the commissioner shall approve a minimum, adequate, fair, and reasonable rate, including the expense of a reasonable charge which the commissioner may approve for the services of an agent of record whether or not an employee or agent of the insurer, for the service of rejected risks as set forth in sections 79.24 to 79.27, for each classification under which such business is written. In approving these rates, the commissioner shall make findings in support thereof and make use of the experience which from time to time may be available and of such other helpful information as may be obtainable. Approval of rates shall be upon hearings under and pursuant to the administrative procedures act, Minnesota Statutes, Chapter 15. For the purpose of uniformity and equality, the commissioner, after consultation with insurers, shall approve a system of merit and experience rating for use in writing such business in this state. No other system of merit or experience rating shall be used in this state. Every insurer referred to in section 79.20 who issues participating policies shall file with the commissioner a true copy or summary as the commissioner shall direct of its participating dividend rates as to policy holders. The commissioner shall study such rates and make recommendations to the legislature concerning possible basis for discrimination. Such filing shall be made at the same time as the filing required in section 79.20. ~~In determining what is a reasonable, fair, and adequate rate the commissioner shall allow insurers to charge an amount for profit and expenses in addition to the amounts necessary to pay any benefits or charges required by chapter 176. The~~

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~~amount~~ allowed for profit and expenses shall not exceed 22.5 percent of the total premiums paid for workers' compensation insurance within this state:

Sec. 2. Laws 1977, Chapter 342, Section 27, Subdivision 1, is amended to read:

Sec. 27. **WORKERS' COMPENSATION STUDY COMMISSION.** Subdivision 1. A study commission is hereby created to study and report on:

(a) the procedure by which workers' compensation insurance premium rates are established;

(b) the level of Minnesota workers' compensation premiums as compared to premium levels in other jurisdictions;

(c) the various methods of providing workers' compensation insurance to employers in other jurisdictions; ~~and~~

(d) the administration of the law by the department of labor and industry and workers' compensation court of appeals; and

(e) the expense factor in the rate in terms of whether the factor is inadequate or excessive.

Sec. 3. Minnesota Statutes 1976, Section 176.132, Subdivision 2, is amended to read:

Subd. 2. **AMOUNT.** (a) The supplementary benefit payable under this section shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or subdivision 4, and 60 percent of the statewide average weekly wage as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or 60 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section.

(d) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be

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payable for the difference between the actual amount of compensation currently being paid and 60 percent of the statewide average weekly wage as computed annually.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which he is eligible under other governmental disability programs due to the provisions of 42 U.S.C. 424a (d), this reduction shall not apply.

Sec. 4. Minnesota Statutes 1976, Section 176.181, Subdivision 2, is amended to read:

Subd. 2. COMPULSORY INSURANCE; SELF-INSURERS. Every employer, except the state and its municipal subdivisions, liable under this chapter to pay compensation shall insure payment of such compensation with some insurance carrier authorized to insure such liability in this state, or obtain a written order from the commissioner of the department of labor and industry exempting such employer from insuring his liability for compensation and permitting him to self-insure such liability. The commissioner may also allow as he deems appropriate two or more employers to enter into agreements to pool their liabilities under chapter 176 for the purpose of qualifying as self-insurers. With the approval of the commissioner of the department of labor and industry, any employer may exclude medical, chiropractic and hospital benefits as required by this chapter. An employer conducting distinct operations at different locations may either insure or self-insure such other portion of his operations which may be determined by the commissioner of the department of labor and industry to be a distinct and separate risk. An employer desiring to be exempted from insuring his liability for compensation shall make application to the commissioner of the department of labor and industry, showing his financial ability to pay such compensation, whereupon by written order the commissioner of the department of labor and industry may make such exemption as it deems proper. The commissioner of the department of labor and industry may require further statements of financial ability of the employer to pay compensation. Upon ten days written notice the commissioner of the department of labor and industry may revoke ~~its~~ his order granting such exemption, in which event the employer shall immediately insure his liability. As a condition for the granting of an exemption the commissioner of the department of labor and industry may require the employer to furnish such security as it considers sufficient to insure payment of all claims under this chapter. If the required security is in the form of currency or negotiable bonds, the commissioner of the department of labor and industry shall deposit same with the state treasurer. In the event of any default upon the part of a self-insurer to abide by any final order or decision of the commissioner of the department of labor and industry directing and awarding payment of compensation and benefits to any employee or the dependents of any deceased employee, then upon at least ten days notice to such self-insurer, the commissioner of the department of labor and industry may by written order to the state treasurer require him to sell the pledged and assigned securities or such part thereof as is necessary to pay the full amount of any such claim or award with interest thereon. This authority to sell may be exercised from time to time to satisfy any order or award of the commissioner of the department of labor and industry or any judgment obtained thereon. When such securities are sold the money so obtained shall be deposited in the state

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treasury to the credit of the commissioner of the department of labor and industry and awards made against any such self-insurer by the commissioner of the department of labor and industry shall be paid to the persons entitled thereto by the state treasurer upon warrants prepared by the commissioner of the department of labor and industry and approved by the commissioner of finance out of the proceeds of the sale of such securities. Where the security is in the form of a surety bond or personal guaranty the commissioner of the department of labor and industry, at any time, upon at least ten days notice and opportunity to be heard, may require the surety to pay the amount of the award, the payments to be enforced in like manner as the award may be enforced.

Sec. 5. Sections 1 to 3 of this act are effective the day following its final enactment. Section 4 of this act is effective August 1, 1979.

Approved April 7, 1978...