SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 876

PRINTER NO. 1773

AMOUNT

$1,000,000-$1,500,000 Savings Annually

FUND

Uninsured Employers Guaranty Fund

DATE INTRODUCED

June 8, 2016

PRIME SPONSOR

Senator Gordner

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 876 amends Act of June 2, 2015 (P.L. 736, No. 338), the Workers' Compensation Act (Act) to address underfunding of the Uninsured Employers Guarantee Fund (UEGF).

The bill amends the Workers' Compensation Act to allow the Department of Labor & Industry to verify that out-of-state employers have secured required workers' compensation insurance or are self-insured under the workers' compensation statutes in other states. If so verified, such employers shall not be considered uninsured employers under the provisions of Article XVI of the Uninsured Employers Guaranty Fund (UEGF).

The bill also provides that if an employee alleges an injury while employed by an out-of-state employer who has not secured workers' compensation insurance, the employee must submit proof in the form of a ruling, decision or notice from another state that the employee has sought and been denied benefits from the other state, prior to initiating a claim against the UEGF. An employee must notify the Fund within 45 days of being advised that the out-of-state employer is uninsured in order to receive compensation from the Fund. A claim petition much be filed within 120 days of the notice.

SB 876 clarifies that the operating and administrative expenses for the direct administration of the Workmen's Compensation Act and the Pennsylvania Occupational Disease Act shall only include the wages and salaries of employees for the administration of these acts; reasonable travel expenses for employees on official business; and related offices expenses.

The bill requires the Department to submit for approval to the General Assembly on a fiscal year basis a proposed budget sufficient to cover the Workmen's Compensation Administration Fund. The total amount approved by the General Assembly shall be the approved budget. If on January 31, there exists an excess amount in the fund of 120% of the approved budget, the following fiscal year's assessment shall be reduced by an amount equal to that excess amount. This is a reduction from current law which requires reduction if the excess is 133% of the budget.

The legislation amends the Act to provide that the Fund may establish lists of at least six designated health care providers who are accessible in each county in specialties relevant to the treatment of work injuries. If such a list is provided, employees must obtain treatment from one of these providers for 90 days from the date of the employee's notice to the Fund. The Fund will not be responsible for payments to a non-designated provider during the 90-day period. This language is consistent with requirements for regular workers' compensation claims.

The bill also requires the employee to verify wages paid by providing a check, payroll record, tax record, unemployment compensation record, bank statements showing regular and recurring deposits, or other written documentation or testimony of the uninsured employer in order for the Fund to be responsible for wage loss benefits.

The bill clarifies that Fund fees, costs, and settlement payments to claimants are to be included in restitution sought and awards against uninsured employers.

The legislation stipulates that the annual UEGF assessment shall not exceed 0.25% of the total compensation paid by all insurers or self-insureds during the previous calendar year.

The bill provides that each year the Department shall determine the expenses of the UEGF for the previous year. If the total amount assessed for the prior fiscal year exceeds 130% of the expenses for that year, the current fiscal year assessment shall be reduced by the excess.

The bill specifies that the outstanding $4 million loan made in March 2016 from the Workers' Compensation Administration Fund to the UEGF, used to maintain the Fund, is reclassified as a transfer that does not need to be repaid.

Section 1610 is amended to provide that if the Department receives information that an employer may be failing to meet its obligations under the act, it may require an employer to certify that the required insurance is possessed or that the business is no longer in operation, did not employ the claimant in question, or is otherwise exempt from the requirements of the act. If such requested certification is not received within 15 days, the Department may assess an administrative penalty of $200 per day. If an employer does not comply within 45 days, the Department may proceed with stop work orders.

The act is effective immediately.

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FISCAL IMPACT:

The UEGF was created by Act 147 of 2006. Funding for claimant payments from the Fund are to be provided by assessments on insurers and self-insured employers. This legislation increases maximum annual assessments from 0.10% to 0.25% of the total compensation paid by all insurers or self-insured employers during the previous calendar year. These assessments are projected to equal approximately $8 million at the 0.25% rate. In addition, any fines or restitution from employers who have failed to provide coverage is deposited in the Fund.

Savings can be expected from the additional provisions in the bill that place a limit on the time period in which a claimant may file for benefits provided through the Fund; require proof from the claimant of wages paid by the uninsured employer; and limit medical treatment to the list of designated health care providers. The Department expects that these additional provisions could generate potential savings of $1 - $1.5 million annually.

The bill allows the Department to assess new administrative penalties of $200 per day (30-day maximum) if the employer fails to respond to requested certification of possession of required insurance or legitimate reasons for exemption of the requirements. This could provide additional revenue to the UEGF, but the total potential amount which could be generated cannot be estimated by the Department.