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## FISCAL IMPACT REPORT

**SPONSOR** Rawson                      **DATE TYPED** 2/7/04                      **HB** \_\_\_\_\_

**SHORT TITLE** Workers' Comp Assessments and Distributions                      **SB** 74/aSFC/aSF1 #1

**ANALYST** Collard

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	\$750.0	\$750.0	Recurring	Uninsured Employers' Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB 111

Relates to appropriation in the General Appropriation Act

### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

Workers' Compensation Administration

New Mexico Department of Transportation

Department of Corrections

### **SUMMARY**

#### Synopsis of SFI Amendment #1

The Senate Floor Amendment #1 to Senate Bill 74 strikes all SFC amendments, strikes Section 2 and inserts a new Section 2, which imposes a fee on employers covered by Workers' Compensation Administration (WCA) of \$2.30 cents per employee per quarter. Additionally, it requires the Taxation and Revenue Department (TRD) collect the fees and take a five percent administration fee. The bill allows the majority of the fees to cover the necessary expenses for WCA, but the additional \$0.30 cents shall be used to fund the Uninsured Employers' Fund.

#### Significant Issues

The Workers' Compensation Advisory Council has approved the increase in the assessment as a funding mechanism for the Uninsured Employers' Fund and specifically approved this approach to the increase.

The New Mexico Department of Transportation indicates an increase of \$900 per quarter for a total increase of \$3,600 for the first year. With an outlook of a 3 percent increase of employees, the department indicates an increase of \$108 after the first year.

The Department of Corrections indicates it has 2,282 employees and must pay an additional \$1.20 per employee, per year which amounts to \$2,738.40 per year.

### Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 74 changes responsibility of Workers' Compensation Administration fee collection back to the Taxation and Revenue Department and, rather than charge employers \$2.30 cents per employee, it provides that the \$0.30 cents of the \$2.00 paid by employers at the end of each quarter be deposited to the Uninsured Employers' Fund.

### Significant Issues

WCA indicates there are two alternate proposals for addressing the funding of the Uninsured Employer's Fund (henceforth, "UEF"). The other proposal amends the current funding language and the Tax Administration Act to make the UEF assessment subject to the Tax Administration Act. The Workers' Compensation Advisory Council has approved an increase in the assessment as a funding mechanism for the UEF in principle, and will review the specific language proposed on January 27, 2004.

Additionally, while the bill establishes a thirty-cent fee to be paid by the employer for each employee per quarter, it does not amend 52-5-19 from two dollars to two dollars and thirty cents, thereby requiring that the uninsured employer fund be funded from revenues intended for the operations of the workers' compensation administration. There would not be any authority to collect the additional thirty cents for the uninsured employer fund. This would have a direct, significant and detrimental effect on funds availability for the agency.

### **FISCAL IMPLICATIONS**

WCA indicates this bill will create a funding source for the UEF that is more predictable than the present source, and will generate more income than the current funding source generated during the first quarter of operation.

The lack of authority to collect the additional thirty cents from employers for each of their employees per quarter will require that the Uninsured Employer Fund be funded from the workers' compensation assessment, which is intended to fund the operations of the agency. This will have a very direct, significant and detrimental effect on funds available for the agency (estimated \$750 thousand) and the agency's ability to carry out its statutory mandates.

As crafted, it will reduce revenues available for agency operations by \$750,000 per fiscal year in order to fund the Uninsured Employers Fund. In fact, revenues would be insufficient to meet operational and uninsured fund needs.

## TECHNICAL ISSUES

Amend 52-5-19 to require the employer to be assessed \$2.30 instead of \$2.00 for each employee per quarter in order to provide the assessment and collection authority for the Uninsured Employer Fund and in order to not have a significant and detrimental impact on funding of agency operations.

### Synopsis of Original Bill

Senate Bill 74 repeals the funding mechanism initially established for the Uninsured Employers' Fund and replaces it with an increase in the general assessment to employers. Instead of charging employers \$2 per quarter per employee, the bill increases the charge to \$2.30 per quarter per employee. The additional thirty cents per quarter will be used to fund the Uninsured Employer's Fund. Additionally, the bill changes responsibility of Workers' Compensation Administration (WCA) fee collection from the Taxation and Revenue Department (TRD) to WCA.

## FISCAL IMPLICATIONS

The fund collected approximately \$62.0 in the first quarter of collections, for an annualized rate of approximately \$248.0. The proposed assessment increase contained in this bill is a recurring expense to employers and will generate \$750.0 annually for the Uninsured Employers' Fund. WCA indicates the bill will create a more predictable funding source than is currently in place.

## ADMINISTRATIVE IMPLICATIONS

WCA indicates the change in responsibility for collection of the WCA assessment will divert substantial resources from the mandatory statutory responsibilities of the WCA, especially since the WCA does not possess the enforcement powers contained in the Tax Administration Act that apply to the current collection mechanism for that fund. Without an appropriation for personnel and infrastructure, is not within the ability of the agency to absorb the collections responsibility under the current or proposed budget.

## CONFLICT, RELATIONSHIP

WCA indicates there is an alternate proposal coming for the Legislature's consideration addressing the funding of the Uninsured Employer's Fund (SB 111). The other proposal amends the current funding language and the Tax Administration Act to make the Uninsured Employers' Fund assessment subject to the Tax Administration Act. The Workers' Compensation Advisory Council has approved the increase in the assessment as a funding mechanism for the Uninsured Employers' Fund in principle, and will review the specific language proposed on January 27, 2004. The bill also changes the collection of the current workers' compensation fund assessment from TRD to the WCA, without providing personnel, infrastructure or enforcement powers comparable to the Tax Administration Act to aid in the collection. The Workers' Compensation Advisory Council has not reviewed or approved this provision of the bill.

## TECHNICAL ISSUES

WCA suggests reinstating Section 2, paragraphs B and C, striking the amended Section 2, paragraph B through the word "director" on line 13, and striking Section 2, paragraph D.

**OTHER SUBSTANTIVE ISSUES**

WCA suggests retaining the collection of the WCA assessment by TRD.

**POSSIBLE QUESTIONS**

How does this affect seasonal employees and employers?

**KBC/dm**