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SENATE BILL 442

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Sue F. Wilson

AN ACT

RELATING TO INSURANCE; SEPARATING THE EXPERIENCE MODIFICATION
FACTOR FOR PARTICIPANTS OF THE NEW MEXICO WORKS ACT;
CLARIFYING THE EMPLOYMENT STATUS OF PARTICIPANTS OF THE NEW
MEXICO WORKS ACT.

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

Section 1. A new section of the New Mexico Insurance
Code is enacted to read:

"[NEW MATERIAL] EXPERIENCE MODIFICATION FACTOR--WORKERS'
COMPENSATION CLAIMS--NEW MEXICO WORKS ACT.--

A. Workers' compensation claims by participants as
defined in the New Mexico Works Act shall be separately
recorded and maintained in the calculation of the experience
modification factor used to calculate premiums for the
participating employer so that the experience modification

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1 factor attributable to claims by participants can be separated
2 from the remainder of the employer's experience modification
3 factor.

4 B. The separately calculated experience
5 modification factor for participants shall not be considered
6 as part of the experience modification factor of any employers
7 who cease to employ participants in their work force. The
8 superintendent of insurance shall promulgate rules to
9 implement this section.

10 C. For the purpose of this section, "participants"
11 means participants as defined in the New Mexico Works Act. "

12 Section 2. A new section of the New Mexico Works Act is
13 enacted to read:

14 "[NEW MATERIAL] WORK ACTIVITIES--INSURANCE. --

15 A. Participants engaged in any work activity
16 described in Section 27-2B-5 NMSA 1978 shall not be considered
17 employees of the state. Participants engaged in an unpaid
18 work activity described in Section 27-2B-5 NMSA 1978 shall be
19 considered trainees.

20 B. Workers' compensation claims by participants
21 shall be separately recorded and maintained in the calculation
22 of the experience modification factor used to calculate
23 premiums for the participating employer so that the experience
24 modification factor attributable to claims by participants can
25 be separated from the remainder of the employer's experience

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modification factor.

C. The separately calculated experience modification factor for participants shall not be considered as part of the experience modification factor of any employers who cease to employ participants in their work force. The superintendent of insurance shall promulgate rules to implement this section."

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3 SB 442/a

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5
6 March 5, 1999

7
8 Mr. President:

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10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
11 referred

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13 SENATE BILL 442

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

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18
19 1. On page 2, line 5, strike "participants" and insert in
20 lieu thereof "the first year of employment of each participant".

21
22 2. On page 2, lines 6, strike "employers" and strike line 7
23 up to the period and insert in lieu thereof "employer".

24
25 3. On page 2, line 14, strike "INSURANCE" and insert in

. 124785. 1

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SPAC/SB 442

Page 5

lieu thereof "WORKERS' COMPENSATION COVERAGE".

4. On page 2, strike Subsection A in its entirety and
insert in lieu thereof the following new Subsection A:

"A. For the purposes of the Workers' Compensation Act:

(1) cash assistance and services paid to
participants engaged in any work activity described in Section
27-2B-5 NMSA 1978 shall not be considered wages and shall not be
deemed to create an employer-employee or co-employer-employee
relationship between the participant and the state; and

(2) payment of a wage subsidy to an employer of a
participant shall not be deemed to be payment of wages by the
state and shall not be deemed to create an employer-employee or
co-employer-employee relationship between the participant and
the state."

5. On page 3, line 3, strike "participants" and insert in

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SPAC/SB 442

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lieu thereof "the first year of employment of each participant".

6. On page 3, line 4, strike "employers" and strike line 5 up to the period and insert in lieu thereof "employer".

7. On page 3, between lines 7 and 8, insert the following subsection:

"D. The department shall ensure that participants undergo safety training prior to employment.".,
and thence referred to the CORPORATIONS & TRANSPORTATION COMMITTEE.

Respectfully submitted,

Shannon Robinson, Chairman

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Boitano, Garcia, Stockard, Smith

Absent: None

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FORTY- FOURTH LEGISLATURE

FIRST SESSION

March 11, 1999

SENATE FLOOR AMENDMENT number _____ to SENATE BILL 442

Amendment sponsored by Senator Sue F. Wilson

1. On page 3, between lines 7 and 8, insert the following subsection:

"E. Participants in an unpaid work activity described in Section 27-2B-5 NMSA 1978 shall be considered trainees and shall not be eligible for workers' compensation benefits."

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FIRST SESSION

SF1 /SB 442

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Sue F. Wilson

Adopted _____ Not Adopted

(Chief Clerk)

(Chief Clerk)

Date _____

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