

The Virgin Islands Consortium

Bill to Consolidate Workers' Comp and Gov't Insurance Draws Mixed Reviews

Critics argue the proposed legislation lacks sufficient input from the private sector and adequate checks and balances

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A bill seeking to bring the Government Insurance Fund and the Workers' Compensation Administration under one umbrella received mixed reviews when presented before the Committee on Education and Workforce Development on Monday night.

Bill 35-0240, sponsored by Senator Novelle Francis, would transfer responsibility for administration of the Government Insurance Fund from the Department of Finance to the Department of Labor. The measure would also amend various sections of Title 24 Virgin

Islands Code, chapter 11 to facilitate better recovery for injury or disease that arises out of and in the course of employment in the Virgin Islands under the Workers' Compensation Administration.

If passed into law, the bill would also ensure that workers entitled to workers' compensation receive medical coverage, rehabilitation services, and disability compensation without undue delay, by merging the benefits and payment components of the Workers' Compensation Insurance Program.?

As it stands, DOL's Workforce Compensation Administration processes claims for workers who are injured on the job, while the Government Insurance Fund processes employers' premiums. "Claim payments processed by the WCA are then disbursed to providers and injured workers through the Department of Finance," explained VIDOL's Assistant Commissioner, Nisha Christian-Hendrickson.

The merger is a proposal from Governor Albert Bryan that is expected to "remove bureaucratic barriers and better support the needs of persons who have been injured in the line of work." The measure was supported by commissioners of both the Departments of Finance and Labor.

For Ms. Christian-Hendrickson, the integration of the two bodies will "correct the shortcomings of both divisions." The merger has been a long time in the making, said DOL Commissioner Gary Malloy. He testified that "it's been very difficult to be able to administer this program in any very efficient manner because it's spread over two departments."?

Among the legislative changes associated with the merger, as explained by Ms. Christian-Hendrickson, are "increased length of time for the statute of limitations of medical care, waiting periods for disability benefits, employer responsibilities, payment timeliness, investigation requirements and provisions regarding the employee reemployment and disability benefits." A new bank account would be established for the collection of all future premiums.

Wholly in support of the move, Finance Commissioner Kevin McCurdy has promised to "work internally with the Department of Labor to address any gaps resulting from this transfer." The separation of functions, he said, will promote "accountability and transparency." The Department of Finance was encouraged to participate in this merger by actuarial scientist Oliver Wyman, who explained that "delays in implementation can hinder effective fund management."?

Mr. Malloy views the move as a fast-track way to remove bottlenecks and told lawmakers that with the implementation of this new bill, the territory would essentially be mirroring the federal system of handling those matters. "It'll be a lot easier to do a lot of the coordination," said Mr. McCurdy, admitting to lawmakers that claims submitted by the Dept. of Labor often got "lost in the shuffle."

Central to the integration is the transfer of the seven Government Insurance Fund staff to the Department of Labor. It's a move that would not affect their union membership or salaries, officials noted. Additionally, Bill 35-0240 would allow the DOL commissioner to appoint a director to "handle the day-to-day operations of the Workers' Compensation

Administration.”?

That provision, however, prompted several questions from Senator Donna Frett-Gregory, who argued that affording such power to a director of the Workers’ Compensation Administration is “completely concerning.” She argued that “there must be some other administrative arm that helps to make these decisions...one person cannot decide the fate of all persons.” While the lawmaker said that she understood the purpose of the legislation, this and several other concerns prevented her from supporting it in its current form. “We want to disregard the fact that we have a \$42 million red balance and start a new bank account...I’m not fine with it,” said the chair of the Committee on Budget, Finance and Appropriations.

?The checks and balances that she says were explained by Commissioner Malloy were not included in the bill as currently drafted. As such, “this legislation needs to have more meat around it,” warned Ms. Frett-Gregory. Concepts like regularly scheduled audits should also be added to the legislation, suggested Senator Carla Joseph.?

Bill 35-0240 would also introduce new penalties for employers who do not provide relevant information to the Workers’ Compensation Administration in a timely fashion. Penalties would range from \$250 to having the Department of Licensing and Consumer Affairs revoke business licenses in extreme cases. However, DOL admitted that they have not had “any extensive conversation” with private-sector employers on the impending changes.

Ultimately, Senators Carla Joseph and Donna Frett-Gregory voted against the bill, with the former asking for more consultations, checks and balances and due diligence. They were, however, overruled by their colleagues, who moved the measure up to the Committee on Rules and Judiciary, where an amendment in the nature of a substitute bill is expected to be presented.