

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute
2 for Senate Bill No. 1, Page 24, Section 287.220, Line 192, by inserting after all of said section and
3 line, the following:
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5 "287.280. 1. Every employer subject to the provisions of this chapter shall, on either an
6 individual or group basis, insure his or her entire liability [thereunder] including workers'
7 compensation and employer liability, except as hereafter provided, with some insurance carrier
8 authorized to insure such liability in this state, except that an employer or group of employers may
9 themselves carry the whole or any part of the liability without insurance upon satisfying the division
10 of their ability so to do. If an employer or group of employers have qualified to self-insure their
11 liability under this chapter, the division of workers' compensation may, if it finds after a hearing that
12 the employer or group of employers are willfully and intentionally violating the provisions of this
13 chapter with intent to defraud their employees of their right to compensation, suspend or revoke the
14 right of the employer or group of employers to self-insure their liability. If the employer or group of
15 employers fail to comply with this section, an injured employee or his dependents may elect after the
16 injury either to bring an action against such employer or group of employers to recover damages for
17 personal injury or death and it shall not be a defense that the injury or death was caused by the
18 negligence of a fellow servant, or that the employee had assumed the risk of the injury or death, or
19 that the injury or death was caused to any degree by the negligence of the employee; or to recover
20 under this chapter with the compensation payments commuted and immediately payable; or, if the
21 employee elects to do so, he or she may file a request with the division for payment to be made for
22 medical expenses out of the second injury fund as provided in subsection 5 of section 287.220. If the
23 employer or group of employers are carrying their own insurance, on the application of any person
24 entitled to compensation and on proof of default in the payment of any installment, the division shall
25 require the employer or group of employers to furnish security for the payment of the compensation,
26 and if not given, all other compensation shall be commuted and become immediately payable;
27 provided, that employers engaged in the mining business shall be required to insure only their
28 liability hereunder to the extent of the equivalent of the maximum liability under this chapter for ten
29 deaths in any one accident, but the employer or group of employers may carry their own risk for any
30 excess liability. When a group of employers enter into an agreement to pool their liabilities under
31 this chapter, individual members will not be required to qualify as individual self-insurers.

32 2. Groups of employers qualified to insure their liability pursuant to chapter 537 or this
33 chapter, shall utilize a uniform experience rating plan promulgated by an approved advisory
34 organization. Such groups shall develop experience ratings for their members based on the plan.
35 Nothing in this section shall relieve an employer from remitting, without any charge to the employer,
36 the employer's claims history to an approved advisory organization.

37 3. For every entity qualified to group self-insure their liability pursuant to this chapter or

Action Taken _____ Date _____

1 chapter 537, each entity shall not authorize total discounts for any individual member exceeding
2 twenty-five percent beginning January 1, 1999. All discounts shall be based on objective
3 quantitative factors and applied uniformly to all trust members.

4 4. Any group of employers that have qualified to self-insure their liability pursuant to this
5 chapter shall file with the division premium rates, based on pure premium rate data, adjusted for loss
6 development and loss trending as filed by the advisory organization with the department of
7 insurance, financial institutions and professional registration pursuant to section 287.975, plus any
8 estimated expenses and other factors or based on average rate classifications calculated by the
9 department of insurance, financial institutions and professional registration as taken from the
10 premium rates filed by the twenty insurance companies providing the greatest volume of workers'
11 compensation insurance coverage in this state. The rate is inadequate if funds equal to the full
12 ultimate cost of anticipated losses and loss adjustment expenses are not produced when the
13 prospective loss costs are applied to anticipated payrolls. The provisions of this subsection shall not
14 apply to those political subdivisions of this state that have qualified to self-insure their liability
15 pursuant to this chapter as authorized by section 537.620 on an assessment plan. Any such group
16 may file with the division a composite rate for all coverages provided under that section.

17 5. Any finding or determination made by the division under this section may be reviewed as
18 provided in sections 287.470 and 287.480.

19 6. No rule or portion of a rule promulgated under the authority of this section shall become
20 effective unless it has been promulgated pursuant to the provisions of section 536.024.

21 7. Any records submitted pursuant to this section, and pursuant to any rule promulgated by
22 the division pursuant to this section, shall be considered confidential and not subject to chapter 610.
23 Any party to a workers' compensation case involving the party that submitted the records shall be
24 able to subpoena the records for use in a workers' compensation case, if the information is otherwise
25 relevant."; and

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27 Further amend said bill by amending the title, enacting clause, and intersectional references
28 accordingly.
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