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COMMITTEE REPORT

April 18, 2013

**H. 3632**

Introduced by Reps. G.M. Smith, White, Sandifer, J.R. Smith, Bannister and Lucas

S. Printed 4/18/13--H.

Read the first time February 27, 2013.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 3632) to amend Section 42‑5‑190, as amended, Code of Laws of South Carolina, 1976, relating to the maintenance tax imposed by the Workers’ Compensation Commission, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

W. BRIAN WHITE for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT** 1/

This bill is expected to reduce allocations to the state’s general fund from the maintenance tax on self insurers, as recorded within the Workers’ Compensation Tax, by $2,400,000 in FY 2013-14, and by a minimum of $2,205,000 in subsequent fiscal years. These figures include a loss of approximately $5,000, annually, in interest penalties assessed on self insurers. Conversely, the bill is expected to raise earmarked funds of the WCC by $2,400,000 in FY 2013-14, and by a minimum of $2,205,000 in subsequent fiscal years.

**Explanation**

Beginning July 1, 2013 this bill authorizes the Workers’ Compensation Commission (WCC) in every fiscal year to retain the greater amount of fifty percent or $2,200,000 of the two and one-half percent maintenance tax imposed on self insurers in this State. It further provides that fifty percent of the total interest assessed from various penalties for late filing of taxes by self insurers must be retained by the WCC. Currently, all proceeds from both sources go to the general fund of the State and are reported within the self-insurance tax component of workers’ compensation taxes; whereas funds to be retained by WCC are to be used to pay salaries and expenses of the commission.

Based on a review of agency data and historical accounts of the Office of the Comptroller General, we expect these proposed changes would raise earmarked funds of the WCC by a total of $2,400,000 in FY2013-14, to include approximately $5,000 in revenue from retention of interest penalties on tax delinquencies. In view of a consistent declining trend for self-insurance tax collections in recent fiscal years, we conservatively estimate the WCC would retain the minimum level of $2,205,000, including retained interest, in subsequent fiscal years. The aforementioned shift would, conversely, reduce state general fund revenue from self-insurance tax collections, recorded within the Workers’ Compensation Tax, by a total of $2,400,000 in FY 2013-14, and by a total of $2,205,000 in subsequent fiscal years.

*Approved By:*

Frank A. Rainwater

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND SECTION 42‑5‑190, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MAINTENANCE TAX IMPOSED BY THE WORKERS’ COMPENSATION COMMISSION ON SELF INSURERS, SO AS TO PROVIDE THAT THE COMMISSION SHALL RETAIN A PORTION OF THE ANNUAL MAINTENANCE TAX REVENUE TO PAY THE SALARIES AND EXPENSES OF THE COMMISSION AND TO PROVIDE THAT THE COMMISSION SHALL RETAIN ONE HALF OF THE INTEREST CHARGED ON DELINQUENT MAINTENANCE TAX FOR THE SAME PURPOSE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 42‑5‑190 of the 1976 Code, as last amended by Act 153 of 1989, is further amended to read:

“Section 42‑5‑190. Every employer carrying his own risk under the provisions of Section 42‑5‑20 shall report under oath to the ~~South Carolina Workers’ Compensation~~ Commission ~~his~~ the employer’s actual cost incurred under the provisions of this title. The report must be made in the form prescribed by the commission by the fifteenth day of the third month following the close of the self‑insurer’s fiscal year. The commission shall assess against the actual cost incurred a maintenance tax computed by taking ~~four~~ two and one‑half percent of the actual cost of operating under the provisions of this title as determined by the commission. ~~For fiscal year 1990‑91, the maintenance tax is at the rate of three and one‑half percent. For fiscal year 1991‑92 and thereafter, the maintenance tax is at the rate of two and one‑half percent.~~ The assessments must be paid to the commission which~~, in turn, shall deposit them with the State Treasurer~~ shall retain in every fiscal year the greater of fifty percent or two million two hundred thousand dollars of the maintenance tax revenues and use these funds to pay the salaries and expenses of the commission. The balance of the maintenance tax revenues must be remitted to the State Treasurer for the credit of the general fund of the State. In the event of failure to pay the tax within fifteen days of the date set forth in this section, the commission may assess against the self‑insurer a penalty of five percent of the unpaid tax. If the self‑insurer fails to pay the tax and penalty within fifteen days of notice by the commission, interest must be added to the amount of the deficiency at the rate of five percent for each month or fraction of a month from the date the tax was due originally until the date the deficiency is paid and the commission may initiate proceedings to withdraw the privilege of self‑insuring in this State. The total maximum interest to be charged may not exceed twenty‑five percent. The penalty under this section is payable to the commission. Fifty percent of the interest must be retained by the commission and used by it as retained maintenance tax revenues are used and the balance of the interest must be remitted to the State Treasurer for the credit of the general fund of the State.”

SECTION 2. This act takes effect July 1, 2013.

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