



A Guide  
to

1995

# Workers' Compensation Reform Legislation

State of Connecticut  
Workers' Compensation Commission  
John A. Mastropietro, Chairman

Rev. 10/99

## P R E F A C E

---

*The 1995 legislative session produced five public acts which affect, change, or add to the Connecticut General Statutes, as they pertain to workers' compensation benefits and the operation of the state's workers' compensation system. Four of the public acts (95-240, 95-243, 95-262 and 95-265) are relatively small in size and scope, while the fifth (95-277, affecting the role of the Second Injury Fund in the state's workers' compensation system) is quite momentous, both in size and in scope.*

*All of these public acts were passed before the end of the legislative session, and have been signed by Governor John Rowland. Each act becomes effective on a specific date, as indicated in this pamphlet. While most of each act is specifically targeted at workers' compensation reform, some of the acts also include modifications to statutes not affecting or related to workers' compensation; such unrelated changes are not covered in this pamphlet.*

*It is my hope that this "Guide to 1995 Workers' Compensation Reform Legislation" will assist you in understanding this year's workers' compensation and related legislation. If, however, you need further information or clarification, the Workers' Compensation Commission will be happy to provide you with further assistance. Please contact your local Commission District Office or the Commission's Education Services to obtain a copy of the Workers' Compensation Bulletin 43 (which includes the full language of the five Public Acts discussed in this Guide).*

*John A. Mastropietro, Chairman  
Connecticut Workers' Compensation Commission*

## NOTE

---

*This informational Guide has been developed by the Connecticut Workers' Compensation Commission as a public service to assist those involved in the state's workers' compensation system in understanding the 1995 legislation which affects and changes workers' compensation and related statutes.*

*The material presented herein is for informational purposes only. It does not constitute the language of the law, nor does it function as a substitute for the law.*

*In the application of law, the Connecticut General Statutes, the Connecticut Administrative Regulations and the decisions of our courts and administrative agencies pertaining to the statutes and regulations prevail as the authoritative sources.*

# CONTENTS

---

**PREFACE** . . . . . i

**NOTE** . . . . . ii

**Public Act No. 95-240** (Substitute House Bill No. 6783) . . . . . 1-1  
An Act Concerning Indemnification Of Members Of The Medical Advisory Panel

**Public Act No. 95-243** (Substitute Senate Bill No. 269) . . . . . 2-1 — 2-2  
An Act Concerning Workers' Compensation Coverage For Municipal Volunteers

**Public Act No. 95-262** (Substitute House Bill No. 6443) . . . . . 3-1 — 3-2  
An Act Concerning Establishment Of A Credit Program On Workers' Compensation  
Premiums Of High-Wage Construction Contractors And Workers' Compensation  
Employment Definition Adjustment

**Public Act No. 95-265** (Substitute House Bill No. 6942) . . . . . 4-1 — 4-2  
An Act Concerning Technical Revisions To The Labor Statutes

**Public Act No. 95-277** (Substitute House Bill No. 6923). . . . . 5-1 — 5-10  
An Act Concerning The Recommendations Of The Blue Ribbon Commission On The  
Second Injury Fund

**INDEX** . . . . . 6-1 — 6-3



## **Public Act No. 95-240**

(Substitute House Bill No. 6783)

### **An Act Concerning Indemnification Of Members Of The Medical Advisory Panel**

#### **Public Act 95-240:**

- was signed by Governor Rowland on July 6, 1995
- became **effective on October 1, 1995**
- modifies the following Connecticut General Statutes:
  - 5-141d
  - 31-279

#### **Medical Advisory Panel Members Indemnified**

*[PA 95-240, §1]*

Legislation enacted in 1991 authorized the Chairman of the Workers' Compensation Commission to appoint a Medical Advisory Panel of appropriate persons to advise him on medical matters relating to the workers' compensation system. Public Act 95-240 adds a new subsection (subsection (e)) to section 31-279 of the Connecticut General Statutes, the purpose of which is to provide legal protection to those persons appointed by the Commission Chairman to sit on this Medical Advisory Panel.

Public Act 95-240 provides legal protection to Medical Advisory Panel members by considering any such appointed persons to be state officers or employees (for purposes of indemnification). Legal protection of such an indemnified state officer or employee includes protection “. . . from financial loss and expense arising out of any claim, demand, suit or judgment by reason of his alleged negligence or alleged deprivation of any person's civil rights or other act or omission resulting in damage or injury, if the officer, employee or member is found to have been acting in the discharge of his duties or within the scope of his employment and such act or omission is found not to have been wanton, reckless or malicious.” (Section 5-141d, subsection (a), C.G.S.)

## **Public Act No. 95-243**

(Substitute Senate Bill No. 269)

### **An Act Concerning Workers' Compensation Coverage For Municipal Volunteers**

#### **Public Act 95-243:**

- was signed by Governor Rowland on July 6, 1995
- became **effective on October 1, 1995**
- changes the following Connecticut General Statutes:
  - 5-249
  - 7-314a
- adds two (2) new sections to the Connecticut General Statutes

Public Act 95-243 deals with workers' compensation benefits and related provisions for volunteer firefighters, volunteer ambulance service members, and state employees who are volunteer firefighters or volunteer ambulance service members. There are also provisions concerning respective state and municipal workers' compensation liabilities for such personnel.

#### **Benefits for Volunteer Firefighters**

*[PA 95-243, §2]*

Public Act 95-243 adds a new section to the Connecticut General Statutes, which provides a choice of benefits for volunteer firefighters who incur compensable injuries in certain situations. Any "active member of a volunteer fire company or department" performing "fire duties" may collect the greater of:

- benefits under the Workers' Compensation Act (based on his or her usual employment salary) or
- benefits under section 7-314a(b) (based on the average production wage in the state)

if the firefighter is injured while engaged in such "fire duties" AND if he or she is unable to perform his or her regular employment duties.



The term “*active member of a volunteer fire company or department*” in this section includes all active members of a fire company or department, fire patrol or fire and police patrol company, whether they are paid or unpaid.

The term “*fire duties*” in this section is defined as duties performed while:

- at fires,
- answering alarms of fire,
- answering calls for mutual aid assistance,
- returning from calls for mutual aid assistance, and
- directly returning from fires.

---

**Provisions for State Employees who are Municipal Volunteers** *[PA 95-243, §4]*

Public Act 95-243 adds a new subsection (subsection (c)) to section 5-249 of the Connecticut General Statutes. This new subsection allows employees of the state of Connecticut who are volunteer firefighters or members of volunteer ambulance services or companies to attend training sessions or drills during regular work hours. Attendance at such events by state employees will result in no loss of pay, overtime accumulation, or sick leave. However, attendance is only allowed with the authorization of the state employee’s appointing authority.

---

**Volunteer Firefighters and Others Performing Fire Duties for the State** *[PA 95-243, §1]*

Public Act 95-243 adds a new subsection (subsection (f)) to section 7-314a of the Connecticut General Statutes. Any member of a volunteer fire company or department and any person who is summoned by:

- the state Forest Fire Warden or
- any state Forest Fire Personnel or District or Deputy Fire Warden under the supervision of the state Forest Fire Warden (under section 23-37)

and who performs fire duties under such personnel or warden shall be considered to be an employee of the State for the purpose of receiving workers’ compensation benefits for injury, disability or death incurred while performing such fire duties under such direction.

---

**Workers’ Compensation Liability for Municipal Volunteers** *[PA 95-243, §3]*

Public Act 95-243 adds a new section to the Connecticut General Statutes stating that municipal liability for work-related injuries of municipal volunteers shall not be affected by the other provisions of this Public Act. Municipalities are still responsible for workers’ compensation insurance coverage for volunteers serving them in fire and ambulance capacities.

## **Public Act No. 95-262**

(Substitute House Bill No. 6443)

### **An Act Concerning Establishment Of A Credit Program On Workers' Compensation Premiums Of High-Wage Construction Contractors And Workers' Compensation Employment Definition Adjustment**

#### **Public Act 95-262:**

- was signed by Governor Rowland on July 6, 1995
- became **effective on July 6, 1995**
- changes the following Connecticut General Statute:  
31-275
- adds one (1) new section to the Connecticut General Statutes

Public Act 95-262 deals with two different topics. First, it establishes a new workers' compensation insurance premium program for employers in the construction industry, and second, it redefines employment under Connecticut's workers' compensation laws.

#### **Adjustment of Employment Definition in Workers' Compensation**

*[PA 95-262, §2]*

Public Act 95-262 amends section 31-275, subdivision (1), of the Connecticut General Statutes by adding a new subsection (subsection (e)) to redefine the phrase "arising out of and in the course of his employment", which is key to determining whether an injury or disease is compensable under Connecticut's workers' compensation laws.

Personal injuries occurring at an employee's "place of abode" AND while the employee is engaged in a "preliminary act" or "acts in preparation for work" are no longer compensable under Connecticut's workers' compensation laws (unless such act or acts are undertaken at the express direction or request of the employer).

For purposes of this section, the term "*place of abode*" is defined as including:

- the inside of residential structures,

- the garage,
- common hallways,
- stairways,
- driveways,
- walkways, and
- the yard.

The terms “*preliminary act*” and “*acts in preparation for work*” are not defined by this Public Act, but the Act does require that by October 1, 1995, the Workers’ Compensation Commission Chairman shall adopt regulations which will define these terms.

**Workers’ Compensation Insurance Premium Program for  
Construction Employers**

*[PA 95-262, §1]*

---

Public Act 95-262 adds a new section to the Connecticut General Statutes requiring that on or before July 1, 1996, the insurance rating organization licensed by the state (under section 38a-672 of the General Statutes) shall file a new method of computing workers’ compensation insurance premiums with the state’s Insurance Commissioner. This new method must be designed so that it will not discriminate against or penalize employers in the construction industry solely because they pay higher wages than other employers pay to workers in the same job classification.

The new method of computing premiums shall grant premium credits to construction contractors (1) who have workers’ compensation insurance policies where at least 50% of the premium is based on construction job classifications and (2) whose experience modifications are unity or less as of July 1, 1996. These new premium credits shall apply to workers’ compensation insurance policies issued or renewed on or after July 1, 1996.

## **Public Act No. 95-265**

(Substitute House Bill No. 6942)

### **An Act Concerning Technical Revisions To The Labor Statutes**

#### **Public Act 95-265:**

- was signed by Governor Rowland on July 6, 1995
- became **effective on July 1, 1995**
- changes the following Connecticut General Statutes:
  - 17b-111
  - 17b-259
  - 17b-692
  - 31-283a
  - 31-283g
- repeals the following section of the Connecticut General Statutes:
  - 31-3s

Public Act 95-265 deals with two very different groups of labor statutes. First, it amends three statutes and repeals one statute concerning the provision of various social services, and second, it administratively restructures several divisions within the Connecticut Workers' Compensation Commission. Only the restructuring within the Commission will be discussed here, as the other affected statutes have little or no relation to the state's workers' compensation laws or system.

#### **Division of Worker Education (DWE) and DWE Director Position Eliminated**

*[PA 95-265, §2]*

Public Act 95-265 amends Section 31-283g of the Connecticut General Statutes to eliminate the Division of Worker Education (DWE) as a separate division within the Workers' Compensation Commission. The position of Director of the Division of Worker Education was also eliminated.

The DWE has provided education services to various parties within the state's workers' compensation system. This Public Act simply eliminates the division as a separate unit within the agency, as

well as the position of director, *NOT* the education services themselves. Education staff have been administratively incorporated into the Commission as a whole, and the Commission will continue to provide education services.

**Division of Workers' Rehabilitation (DWR) and DWR Director Position  
Eliminated**

*[PA 95-265, §1]*

---

Public Act 95-265 amends Section 31-283a of the Connecticut General Statutes to eliminate the Division of Workers' Rehabilitation (DWR) as a separate division within the Workers' Compensation Commission. The position of Director of the Division of Workers' Rehabilitation was also eliminated.

The DWR has provided rehabilitation services to employees with compensable work-related injuries which had disabled them from performing their customary or most recent work. This Public Act simply eliminates the division as a separate unit within the agency, as well as the position of director, *NOT* the rehabilitation services themselves. Rehabilitation staff have been administratively incorporated into the Commission as a whole, and the Commission will continue to provide rehabilitation services.

## **Public Act No. 95-277**

(Substitute House Bill No. 6923)

### **An Act Concerning The Recommendations Of The Blue Ribbon Commission On The Second Injury Fund**

#### **Public Act 95-277:**

- was signed by Governor Rowland on June 29, 1995
- **sections 6, 12, 13, 15, 17 and 18** became **effective on June 29, 1995**
- **sections 1-5, 7-11 and 14** became **effective on July 1, 1995**
- **section 16** became **effective on January 1, 1996**
- changes or affects the following Connecticut General Statutes:
  - 31-284b
  - 31-288
  - 31-301
  - 31-306
  - 31-310
  - 31-315
  - 31-349
  - 31-349a
  - 31-349b
  - 31-354
  - 53a-3
- repeals the following section of the Connecticut General Statutes:
  - 31-325
- adds seven (7) new sections to the Connecticut General Statutes

Connecticut, like most states, established its Second Injury Fund primarily to foster the employment of individuals with existing disabilities, including those with congenital conditions and disabilities caused by non-work-related accidents. The Fund was also designed to relieve employers from the hardship of liability for those consequences of a compensable injury which are not attributable to

their employment. However, by early 1995 the future liability of the Fund had been estimated to approach six billion dollars, and had been considered by many to have become a major financial disaster that could possibly have threatened Connecticut's future economic health.

The Blue Ribbon Commission on the Second Injury Fund was (in the words of the Mission Statement from its 1994 report) created “. . . to: (1) determine the mission and purpose of the Fund; (2) study feasibility of allowing employers to self-insure their Second Injury Fund exposure; (3) review case management alternatives for Second Injury Fund claims; and (4) examine the financial structure of the Fund, including the manner in which employers and carriers are assessed, to determine methods of reducing costs . . . ”

Comprised of 19 sections, Public Act 95-277 is the 1995 General Assembly's response to the recommendations of the Blue Ribbon Commission on the Second Injury Fund, and is a sweeping reform of the role of the state's Second Injury Fund. It changed or affected twelve statutes dealing with the Fund or Fund-related topics, added seven new sections to the Connecticut General Statutes, and covers a wide variety of areas concerning the Fund itself, as well as other areas within the workers' compensation system. The primary change, however, is that the Public Act stopped the transfer of workers' compensation claims to the state's Second Injury Fund (see page 5-7).

### **Acknowledgments of Physical Condition**

*[PA 95-277, §3, §10, §18]*

Public Act 95-277 repealed Section 31-325 of the Connecticut General Statutes, thus eliminating the Acknowledgment of Physical Condition.

Public Act 95-277 also amended Section 31-349 of the General Statutes to repeal the provision that directed the Second Injury Fund to pay compensation for injuries sustained by employees who had approved Certificates of Acknowledgment on file.

As a consequence of the repeal of 31-325 and the amendment of 31-349:

- as of June 29, 1995 (the effective date of this section of the Public Act) the Workers' Compensation Commission will no longer receive and file Certificates of Acknowledgment of Physical Condition, and
- it is only possible to transfer cases involving Acknowledgments to the Second Injury Fund which stem from injuries occurring BEFORE June 29, 1995

[NOTE: In addition to the above, Public Act 95-277 also makes a technical change to Section 31-349b of the Connecticut General Statutes (concerning the Certificate for Permanent Vocational Disability) to reflect the repeal of the Acknowledgment of Physical Condition under 31-325.]

(See also “*Transfer of Claims to the Second Injury Fund*” on page 5-7.)

## **Advisory Board for the Second Injury Fund**

*[PA 95-277, §6]*

Public Act 95-277 adds a new section to the Connecticut General Statutes which establishes an Advisory Board to advise the custodian of the state's Second Injury Fund on matters concerning the Fund's administration, operation, claims handling and finances. The Board shall be comprised of eight members, including six individuals appointed by the Treasurer (three representing employers and insurers who pay assessments for the Fund under Section 31-354 of the General Statutes and three representing employees who are receiving benefits paid or reimbursed by the Fund) and the Chairmen of the Labor and Public Employees Committee of the General Assembly (or their designees). The six members appointed by the Treasurer shall serve for four-year terms, and all Board members will serve without compensation.

The Advisory Board shall elect a Chairman from among its members, and the Treasurer shall provide such staff as is necessary for the performance of the Board's functions and duties. The Board must meet at least twice a year, and all actions of the Board require an affirmative vote of six members.

## **Annual Report on the Second Injury Fund**

*[PA 95-277, §8]*

Public Act 95-277 adds a new section to the Connecticut General Statutes requiring the state Treasurer to annually submit a report on the financial condition of the state's Second Injury Fund to the Governor and to the General Assembly. The report must be submitted on or before July 1, 1996, and annually thereafter, and must include (1) an estimate of the Fund's unfunded liability, (2) the effect of settlements and stipulations on the unfunded liability, (3) the number and amount of assessments levied under Section 31-354 of the General Statutes for the previous fiscal year, (4) the number and amount of such assessments projected for the coming year, and (5) any recommendations for legislative change to improve the operation or financing of the Fund.

## **Assessments for the Second Injury Fund**

*[PA 95-277, §15, §16]*

Public Act 95-277 amended Section 31-354 of the Connecticut General Statutes in two different sections of the Act:

- Section 15 of the Public Act amends Section 31-354 by requiring that each private insurance carrier and each interlocal risk management agency shall submit an annual report to the state Treasurer including the total standard earned premium collected in the preceding calendar year. This section is effective June 29, 1995.
- Section 16 of the Public Act amends Section 31-354 by changing the amount of assessments made on employers for the use of the state's Second Injury Fund from a set amount ("*a sum not to exceed five per cent of the total amount of money expended by the employer, by a private insurance carrier on his behalf, by an interlocal risk management agency on his behalf or by the fund pursuant to section 31-355*") to an amount to be determined in accordance with the regulations regarding the method of assessing employers required under this Public Act. This section is effective January 1, 1996.

(See also "*Regulations Regarding Second Injury Fund Assessments*" on page 5-7.)



## **Building Permits and Workers' Compensation Insurance Coverage**

*[PA 95-277, §7]*

Public Act 95-277 adds a new section to the Connecticut General Statutes which specifies that before issuing any building permit (under Section 29-263 of the General Statutes) on construction projects where the total cost of work to be done is \$100,000 or more, local building officials shall require proof of workers' compensation insurance coverage for all persons who will be employed or engaged to perform services on the construction site. A property owner intending to perform all of the construction work himself must certify this fact in writing to the local building official in lieu of providing proof of workers' compensation coverage.

## **Concurrent Employment**

*[PA 95-277, §2]*

Public Act 95-277 amended Section 31-310 of the Connecticut General Statutes to redefine the method of determining the amount of workers' compensation benefits an employer must pay when the injured employee is employed by more than one employer (concurrently employed).

In the past, if an injured employee held more than one job, the employer where the injury occurred would be responsible not only for medical treatment, but also for a "pro rata portion" of the injured employee's compensation rate *based upon the ratio of the amount of wages paid by that employer to the total wages (from ALL the employee's employers) paid to the employee in an average week* (a "percentage of wages paid" method of calculation). NOW, as amended in this public act, the employer where the injury occurred is responsible once again for all medical and hospital costs, but its share of the employee's compensation rate is ***equal to 75% of the injured employee's average weekly wage (after federal and state taxes and FICA deductions) paid by THAT employer, not by ALL employers*** (a "dollar amount" method of calculation).

As was the case before this legislation, any amount of compensation due to employment other than where the injury occurred is still paid by the Second Injury Fund, upon submission to the Treasurer by the employer or its insurer.

## **Financing Options for the Second Injury Fund**

*[PA 95-277, §17]*

Public Act 95-277 directs the custodian of the state's Second Injury Fund to review financing options for the Fund's unfunded liability, and to report to the Joint Standing Committee of the General Assembly having cognizance of matters relating to labor and public employees by February 1, 1996 concerning recommendations for financing the unfunded liability and other facets of the Fund.

## **Investigators in the Office of the Treasurer**

*[PA 95-277, §1, §12, §13]*

Public Act 95-277 amends Section 31-349a of the Connecticut General Statutes by moving the investigators and the investigations unit of the Workers' Compensation Commission back to the Office of the Treasurer (Legislation in 1993 had moved them from the Treasurer to the Commission.). This amended section specifies that the investigators will investigate Second Injury Fund claims (not *all* workers' compensation claims, as before) which may violate the law, and that they will also

investigate employer compliance with the workers' compensation insurance requirements under Section 31-284(b) of the General Statutes. Public Act 95-277 makes changes to Section 31-288 of the General Statutes directing the investigators to issue citations to those employers whom they find to be not properly insured, and to request hearings for such employers before a Workers' Compensation Commissioner to answer any charges of noncompliance with the insurance requirements. This hearing is required and must be held within 30 days of the citation.

[NOTE: Public Act 95-277 also makes a technical change to Section 53a-3 of the Connecticut General Statutes (the definition of "peace officer") to reflect the move of investigators back to the Office of the Treasurer.]

(See also "*Penalties for Employer Noncompliance*" on page 5-6.)

---

### **Medical Panel for Disputed Second Injury Fund Transfers**

**[PA 95-277, §4]**

Public Act 95-277 adds a new section to the Connecticut General Statutes which establishes a medical panel comprised of three physicians appointed by the Chairman of the Workers' Compensation Commission to review disputed medical issues regarding the transfer of claims to the Second Injury Fund. Both the custodian of the Fund and an insurer or self-insured employer seeking to transfer a claim to the Fund must submit all controverted medical issues to the Chairman of the Commission, who will then submit them to the panel for its consideration. The medical panel may examine the claimant, who must submit to any examination the panel requires. The panel must submit its opinion in writing to the Chairman of the Commission within 60 days of receiving the submitted dispute; the Chairman will then forward the panel's opinion to the Workers' Compensation Commissioner who has jurisdiction over the claim in which the dispute arose. The panel's opinion is determined by a majority vote, is binding on all parties to the claim, and may not be appealed to the Commission's Compensation Review Board under Section 31-301 of the General Statutes.

(See also "*Regulations Regarding Payment of Medical Panel Members*" on page 5-7.)

---

### **Modification of Transfers to the Second Injury Fund**

**[PA 95-277, §11]**

Public Act 95-277 amended Section 31-315 of the Connecticut General Statutes by (1) allowing transfers of claims to the state's Second Injury Fund to be modified (as well as agreements concerning awards of compensation) and (2) allowing the custodian of the Second Injury Fund, or the parties to a claim, to request such a modification of a transfer of a claim to the Fund.

---

### **Payment of Compensation During Pendency of Appeals**

**[PA 95-277, §9]**

Public Act 95-277 amended Section 31-301(f) of the Connecticut General Statutes to provide that, while an appeal of an award is pending, the claimant in the case shall receive all compensation and medical treatment payable under the terms of the award from the employer or its insurer. (This had previously been paid by the state's Second Injury Fund.) It also allows the employer or its insurer to obtain reimbursement from the claimant in the case for any such payments, plus interest, in cases where the award of compensation is subsequently overturned.

## **Penalties for Employer Noncompliance**

*[PA 95-277, §1]*

Public Act 95-277 amends Section 31-288 of the Connecticut General Statutes by adding a number of new monetary and other penalties for an employer's noncompliance with workers' compensation insurance requirements under Section 31-284(b) of the General Statutes.

The Act specifies that when an investigator in the Office of the State Treasurer finds that an employer is not in compliance with the workers' compensation insurance requirements under Section 31-284(b), he or she will issue a citation to the employer requiring him to obtain insurance, notifying him of the requirement of a hearing before a Workers' Compensation Commissioner to answer any charges of noncompliance with the insurance requirements, and notifying him of the penalties involved. An investigator issuing such a citation will also file an affidavit advising the Commissioner of the employer's citation and requesting a hearing on the violation; the hearing must be held within 30 days of the citation. As a fine for the employer's noncompliance, the Commissioner shall assess a civil penalty against the employer of:

- not less than \$500 per employee OR \$5,000, whichever is less, AND
- not more than \$50,000 (this used to be \$10,000)
- this penalty is now mandatory (it used to be at the Commissioners' discretion)

The Act also states that, in addition to the above penalties, the Commissioner shall assess an additional penalty of \$100 for each day after the finding of noncompliance that the employer fails to comply with the workers' compensation insurance requirements. This additional penalty is not to exceed \$50,000 in the aggregate.

Another provision of this Act provides that when any employer knowingly and wilfully fails to comply with the workers' compensation insurance requirements, the employer will be guilty of a Class D Felony. For purposes of this penalty, in the case of a sole proprietor, the employer is considered to be the owner; in the case of a partnership, the employer is considered to be a partner; in the case of a limited liability company, the employer is considered to be a principal; and in the case of a corporation, the employer is considered to be a corporate officer.

This Public Act also adds a subsection which directs the Chairman of the Workers' Compensation Commission to transfer monthly any monetary penalties collected under Section 31-288 to the custodian of the Second Injury Fund. Any appeal of such a penalty shall be taken in accordance with Section 31-301 of the General Statutes.

(See also "*Investigators in the Office of the Treasurer*" on page 5-4 and "*Regulations Regarding Employer Noncompliance Penalties*" on page 5-7.)

## **Privatization of Medical Management of Second Injury Fund Claims**

*[PA 95-277, §5]*

Public Act 95-277 adds a new section to the Connecticut General Statutes which allows the state's Treasurer to solicit proposals from firms in the business of workers' compensation medical case management for the purposes of managing Second Injury Fund claims or providing any other necessary services not provided by state employees.

## **Regulations Regarding Employer Noncompliance Penalties**

**[PA 95-277, §1]**

Public Act 95-277 amends Section 31-288 of the Connecticut General Statutes to require the Chairman of the Workers' Compensation Commission to adopt regulations for the Workers' Compensation Commissioners to use in setting fines under 31-288 (an employer's noncompliance with the workers' compensation insurance requirements under Section 31-284(b) of the General Statutes). The regulations shall require the Commissioners, when assessing penalties on employers, to take into account the nature of an employer's business and his number of employees.

(See also "*Penalties for Employer Noncompliance*" on page 5-6.)

## **Regulations Regarding Payment of Medical Panel Members**

**[PA 95-277, §4]**

Public Act 95-277 adds a new section to the Connecticut General Statutes, part of which requires the Chairman of the Workers' Compensation Commission to adopt regulations to establish a fee schedule for payment of medical panel members used in disputed Second Injury Fund transfers, and specifies that any fees paid to such panel members under this section shall be paid by the insurer or self-insured employer seeking reimbursement by the Fund.

(See also "*Medical Panel for Disputed Second Injury Fund Transfers*" on page 5-5.)

## **Regulations Regarding Second Injury Fund Assessments**

**[PA 95-277, §14, §16]**

Public Act 95-277 adds a new section to the Connecticut General Statutes which requires the state Treasurer (in consultation with the Insurance Commissioner), on or before January 1, 1996, to adopt regulations regarding the method of assessing all employers for the liabilities of the state's Second Injury Fund. The Treasurer must consider the regulations' effect upon (1) the cost of doing business in Connecticut, (2) the overall cost of the state's workers' compensation system, (3) the effect of the regulations on insurers, insureds and self-insured employers, and (4) the financial condition and liabilities of the Second Injury Fund.

The liabilities of the Fund covered by these regulations shall be allocated between self-insured employers and insured employers based on paid losses for the preceding calendar year. ("Insured employers" under this section also includes employers who are members of workers' compensation pools administered by interlocal risk management agencies.) The method of assessing self-insured employers shall be based on paid losses. The method of assessment for insured employers shall be a surcharge based on premium.

(See also "*Assessments for the Second Injury Fund*" on page 5-3.)

## **Transfer of Claims to the Second Injury Fund**

**[PA 95-277, §3]**

Public Act 95-277 amended Section 31-349 of the Connecticut General Statutes in a number of ways, which includes what are certainly the most dramatic changes in this year's workers' compensation related legislation.

— **No Transfers of New Claims**

Subsection (d) of Section 31-349 eliminates transfers of workers' compensation claims to the state's Second Injury Fund for injuries occurring ON OR AFTER July 1, 1995. All such cases shall remain the responsibility of the employer or its insurer.

— **Renotification Required for Pending Transfer Requests**

Subsection (e) of Section 31-349 requires employers or their insurers who have already notified the Second Injury Fund (prior to July 1, 1995) of their intentions to transfer cases to the Fund to RENOTIFY the Fund by certified mail prior to October 1, 1995 of their intentions to transfer such cases. If an employer or its insurer fails to renotify the Fund of its intentions prior to October 1, 1995, that employer's or insurer's claim for transfer will be considered to be withdrawn with prejudice. No notification fee is required for such renotifications of existing claims for transfers to the Fund. *[NOTE: This renotification requirement does NOT apply to notices which were resubmitted prior to July 1, 1995 in response to the custodian of the Fund's request of March 15, 1995 for voluntary resubmission of notices.]*

— **New Notice Requirements**

Subsection (b) of Section 31-349 adds new notice requirements that employers or their insurers must meet in order to transfer claims to the Second Injury Fund. *[NOTE: These requirements apply ONLY to transfers of claims involving injuries occurring BEFORE July 1, 1995, since the Fund will no longer allow transfers of claims of injuries occurring ON OR AFTER July 1, 1995.]*

An employer or its insurer must notify the Fund's custodian by certified mail:

- no later than three (3) calendar years after the date of injury, or
- no later than ninety (90) days after completion of payments for the first 104 weeks of disability

*whichever is earlier*, of its intent to transfer liability for a claim to the Fund. The employer or its insurer must include the following items with its notification to the Fund:

- copies of all medical reports,
- an accounting of all benefits paid,
- copies of all findings, awards and approved voluntary agreements,
- the employer's or insurer's estimate of the reserve amount to ultimate value for the claim,

- a \$2,000 notification fee payable to the custodian of the Fund to cover the Fund's costs in evaluating the claim proposed to be transferred, and
- such other material as the Fund's custodian may require.

The Fund's custodian shall notify a self-insured employer or an insurer by certified mail of a claim's rejection (for transfer) within 90 days after receiving the employer's or insurer's notification. Any claim not rejected shall be considered to have been accepted by the Fund, unless the custodian notifies the self-insured employer or insurer within that 90-day period that up to an additional 90 days will be needed to determine whether the claim for transfer will be accepted.

If an employer's or insurer's claim for transfer is accepted by the Fund, the custodian will file such fact with the Workers' Compensation Commissioner in the Workers' Compensation District where the claim was filed, including the date of the transfer, and will refund \$1,500 of the notification fee to the employer or the insurer. If the Fund's custodian rejects an employer's or insurer's claim for transfer, that employer or insurer must submit the question to the Workers' Compensation Commissioner having jurisdiction in the case, by certified mail and within 30 days of receiving the custodian's rejection; claims not submitted to the Commissioner within the 30-day period shall be deemed to be withdrawn with prejudice.

Public Act 95-277 also specifies that the new notice requirements and procedures under subsection (b) of Section 31-349 must be followed when employers or insurers are making requests for transfers of cases to the Fund involving the payment of death benefits under Section 31-306 of the General Statutes.

— **No Compensation Payments due to Acknowledgments of Physical Condition**

The former subsection (d) of Section 31-349 was repealed, thus eliminating the provision for the transfer of claims of injuries where the injured employee had filed an approved Acknowledgment of Physical Condition. Consequently, it is only possible to transfer claims involving Acknowledgments to the Second Injury Fund which stem from injuries occurring BEFORE June 29, 1995, the effective date of the repeal of Section 31-325 of the General Statutes (dealing with the Acknowledgment of Physical Condition).

— **No Insurance Coverage Payments under 31-284b**

The former subsections (e), (f) and (g) of Section 31-349 were repealed, thus eliminating the provision for the Second Injury Fund's payment of continued insurance coverage under Section 31-284b of the General Statutes. Consequently, the Second Injury Fund will no longer pay for continued insurance coverage for:

- claimants receiving temporary total compensation benefits under Section 31-307 beyond the first 104 weeks of disability,

- claimants whose employers had moved out of state or permanently shut down all their operations within the state and had failed to comply with the provisions of 31-284b, and
- claimants being paid compensation by the Second Injury Fund on or after January 1, 1990 who were injured between January 1, 1980 and January 1, 1982.

(See also “*Acknowledgments of Physical Condition*” on page 5-2, “*Medical Panel for Disputed Second Injury Fund Transfers*” on page 5-5 and “*Modification of Transfers to the Second Injury Fund*” on page 5-5.)

# INDEX

---

## A

Acknowledgment of Physical Condition 5-2, 5-9  
Adjustment of Employment Definition in Workers'  
Compensation 3-1 — 3-2  
Advisory Board for Second Injury Fund 5-3  
Ambulance Personnel, Volunteer 2-2  
Annual Report on Second Injury Fund 5-3  
Appeal:  
Compensation Review Board 5-5  
Pendency and Second Injury Fund 5-5  
Assessments for Second Injury Fund 5-3, 5-7

## B

Benefits:  
Death 5-9  
Volunteer Firefighters 2-1 — 2-2  
Blue Ribbon Commission on Second Injury Fund 5-2  
Building Permits and WC Insurance Coverage 5-4

## C

Certificate:  
Acknowledgment of Physical Condition 5-2, 5-9  
Permanent Vocational Disability 5-2  
Chairman, Workers' Compensation Commission 1-1, 3-2,  
5-5, 5-6, 5-7  
Citation, Employer 5-5, 5-6  
Claims, Transfer of to Second Injury Fund 5-2, 5-5,  
5-7 — 5-10  
Commission, Workers' Compensation 1-1, 3-2, 4-1, 4-2,  
5-2, 5-4, 5-5, 5-6, 5-7  
Commissioner:  
Insurance 3-2, 5-7  
Workers' Compensation 5-5, 5-6, 5-7, 5-9  
Compensation Review Board 5-5  
Concurrent Employment 5-4  
Connecticut General Statutes:  
5-141d 1-1  
5-249 2-1, 2-2  
7-314a 2-1 — 2-2  
17b-111 4-1  
17b-259 4-1  
17b-692 4-1  
23-37 2-2  
29-263 5-4  
31-3s 4-1  
31-275 3-1 — 3-2  
31-279 1-1  
31-283a 4-1, 4-2

31-283g 4-1 — 4-2  
31-284 5-5, 5-6  
31-284b 5-1, 5-9 — 5-10  
31-288 5-1, 5-5, 5-6  
31-301 5-1, 5-5, 5-6  
31-306 5-1, 5-9  
31-310 5-1, 5-4  
31-315 5-1, 5-5  
31-325 5-1, 5-2, 5-9  
31-349 5-1, 5-2, 5-7 — 5-10  
31-349a 5-1, 5-4  
31-349b 5-1, 5-2  
31-354 5-1, 5-3  
38a-672 3-2  
53a-3 5-1, 5-5

Construction:  
Construction Employer Insurance Premium Credit  
Program 3-2  
Construction Project, Building Permit 5-4  
Corporate Officer 5-6  
Corporation 5-6  
Custodian, Second Injury Fund 5-3, 5-4, 5-5, 5-6, 5-8, 5-9

## D

Death Benefits 5-9  
Definition of:  
Employment in Workers' Compensation 3-1 — 3-2  
Peace Officer 5-5  
Director:  
Division of Worker Education 4-1  
Division of Workers' Rehabilitation 4-2  
Division:  
Worker Education 4-1 — 4-2  
Workers' Rehabilitation 4-2

## E

Employee, State 2-2, 5-6  
Employer:  
Citations 5-5, 5-6  
Construction 3-2, 5-4  
Corporation 5-6  
Limited Liability Company 5-6  
Noncompliance 5-5, 5-6, 5-7  
Partnership 5-6  
Penalties 5-6  
Sole Proprietor 5-6  
Employment:  
Concurrent 5-4  
Definition of in Workers' Compensation 3-1 — 3-2



# INDEX

---

## F

Fee Schedule, Regulations for Medical Panel 5-7  
Felony, Class D 5-6  
Financing Options for Second Injury Fund 5-4  
Firefighters, Volunteer 2-1 — 2-2

## G

General Assembly:  
    Labor and Public Employees Committee 5-3, 5-4  
    Report to 5-3  
Governor:  
    Report to 5-3  
    State of Connecticut 1-1, 2-1, 3-1, 4-1, 5-1

## H

Hearing for Employer WC Insurance Noncompliance  
    5-5, 5-6  
House Bill:  
    No. 6443 3-1 — 3-2  
    No. 6783 1-1  
    No. 6923 5-1 — 5-10  
    No. 6942 4-1 — 4-2

## I

Indemnification of Medical Advisory Panel 1-1  
Insurance:  
    Commissioner 3-2, 5-7  
    Coverage under 31-284b and Second Injury  
    Fund 5-9 — 5-10  
    Premium Credit Program for Construction  
    Employers 3-2  
Investigators in the Office of the Treasurer 5-4 — 5-5,  
5-6

## L

Liability:  
    Unfunded, Second Injury Fund 5-3, 5-4  
    Workers' Compensation — Municipal Volunteers  
    2-2  
Limited Liability Company 5-6

## M

Medical Advisory Panel 1-1

Medical Management, Privatization of Second Injury Fund  
    Claims 5-6  
Medical Panel:  
    Fee Regulations for 5-7  
    for Disputed Second Injury Fund Transfers 5-5  
Modification of Transfer to SIF 5-5  
Monetary Penalties, Transfer of 5-6  
Municipal Volunteers 2-1 — 2-2

## N

Noncompliance, Employer 5-5, 5-6, 5-7  
Notice Requirements for Second Injury Fund 5-8 — 5-9

## O

Owner (Sole Proprietor) 5-6

## P

Partner 5-6  
Partnership 5-6  
Peace Officer 5-5  
Penalties, Employer Noncompliance 5-6  
Pendency of Appeal and Second Injury Fund 5-5  
Permanent Vocational Disability, Certificate of 5-2  
Premium Credit Program for Construction Employers 3-2  
Principal 5-6  
Privatization of SIF Claim Medical Management 5-6  
Proprietor, Sole 5-6  
Public Act:  
    95-240 1-1  
    95-243 2-1 — 2-2  
    95-262 3-1 — 3-2  
    95-265 4-1 — 4-2  
    95-277 5-1 — 5-10

## R

Regulations:  
    Assessments for Second Injury Fund 5-7  
    Definition of Terms Regarding Employment in  
    Workers' Compensation 3-2  
    Employer Noncompliance Penalties 5-7  
    Medical Panel Fees 5-7  
Renotification Requirement for Second Injury Fund 5-8  
Report:  
    Second Injury Fund Financing Options 5-4  
    To Governor and General Assembly 5-3

# INDEX

---

## S

Second Injury Fund (SIF):  
  Acknowledgment of Physical Condition 5-2, 5-9  
  Advisory Board 5-3  
  Annual Report on SIF 5-3  
  Assessments 5-3, 5-7  
  Blue Ribbon Commission on SIF 5-2  
  Certificate for Permanent Vocational Disability 5-2  
  Concurrent Employment 5-4  
  Custodian 5-3, 5-4, 5-5, 5-6, 5-8, 5-9  
  Financing Options 5-4  
  Insurance Coverage under 31-284b 5-9 — 5-10  
  Investigators in the Office of the Treasurer  
    5-4 — 5-5, 5-6  
  Medical Panel for Disputed Transfers 5-5  
  Notice Requirements 5-8 — 5-9  
  Peace Officer, Definition 5-5  
  Pendency of Appeal 5-5  
  Privatization of SIF Claim Medical Management 5-6  
  Regulations: Employer Noncompliance Penalties  
    5-7  
  Regulations: Medical Panel Fees 5-7  
  Regulations: SIF Assessments 5-7  
  Renotification Requirement 5-8  
  Report to Governor and General Assembly 5-3  
  Transfer, Modification of 5-5  
  Transfer of Claims 5-2, 5-5, 5-7 — 5-10  
  Transfer of Monetary Penalties 5-6  
  Unfunded Liability 5-3, 5-4  
Senate Bill No. 269 2-1 — 2-2  
Sole Proprietor 5-6  
State Employees 2-2, 5-6

## T

Transfer of Claim to Second Injury Fund 5-2, 5-5,  
  5-7 — 5-10  
Transfer of Monetary Penalties 5-6  
Treasurer, State of Connecticut 5-2, 5-3, 5-4, 5-5, 5-6, 5-7

## U

Unfunded Liability, Second Injury Fund 5-3, 5-4

## V

Volunteer:  
  Ambulance Personnel 2-2  
  Firefighters 2-1 — 2-2

## W

Workers' Compensation:  
  Act 2-1  
  Commission 1-1, 3-2, 4-1, 4-2, 5-2, 5-4, 5-5, 5-6,  
    5-7  
  Commission Chairman 1-1, 3-2, 5-5, 5-6, 5-7  
  Commission's Compensation Review Board 5-5  
  Commission's Division of Worker Education  
    4-1 — 4-2  
  Commission's Division of Workers' Rehabilitation  
    4-2  
  Commissioner 5-5, 5-6, 5-7, 5-9  
  Employment Definition Adjustment 3-1 — 3-2  
  Hearing for Employer Noncompliance 5-5, 5-6  
  Insurance Coverage and Building Permits 5-4  
  Insurance Premium Credit Program for Construction  
    Employers 3-2  
  Liability for Municipal Volunteers 2-2