

SF3193 - 1A - Insolvent Self-Insurer Modified

Chief Author: **Jennifer McEwen**
 Committee: **Finance**
 Date Completed: **5/8/2023 12:57:09 PM**
 Lead Agency: **Commerce Dept**
 Other Agencies:
 Administrative Hearings Labor and Industry Dept
 Minn Management and
 Budget

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Labor and Industry Dept						
Workers Compensation	-	220	288	99	36	
State Total						
Workers Compensation	-	220	288	99	36	
Total	-	220	288	99	36	
Biennial Total			508			135

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Labor and Industry Dept					
Workers Compensation	-	.75	1	.25	-
Total	-	.75	1	.25	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Shannon Zila **Date:** 5/8/2023 12:57:09 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Labor and Industry Dept						
Workers Compensation	-	220	288	99	36	
Total	-	220	288	99	36	
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1 - Expenditures, Absorbed Costs*, Transfers Out*						
Labor and Industry Dept						
Workers Compensation	-	220	288	99	36	
Total	-	220	288	99	36	
	Biennial Total		508		135	
2 - Revenues, Transfers In*						
Labor and Industry Dept						
Workers Compensation	-	-	-	-	-	-
Total	-	-	-	-	-	-
	Biennial Total		-		-	-

SF3193 - 1A - Insolvent Self-Insurer Modified

Chief Author: **Jennifer McEwen**
 Committee: **Finance**
 Date Completed: **5/8/2023 12:57:09 PM**
 Agency: **Commerce Dept**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Shannon Zila **Date:** 5/3/2023 2:05:59 PM
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State Cost (Savings) Calculation Details

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Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

Senate File 3193-1A requires a private self-insurer to notify the Commissioner of Commerce prior to or immediately upon filing a bankruptcy petition and/or when it has been declared to be bankrupt. The bill requires the commissioner to call the private self-insurer’s security deposit if that private self-insurer has not paid its workers’ compensation benefits as required by chapter 176. If the private self-insurer has failed to pay its workers’ compensation benefits, the commissioner may call the security deposit if they determine workers’ compensation benefits would be delayed in any way. This determination is carried out in consultation with the Commissioner of Labor and Industry and must consider the self-insurer’s recent actuarial statements, claims history and projections, circumstances leading to the bankruptcy, as well as any other circumstances the commissioner deems relevant. The bill requires the commissioner to also meet and confer with the private self-insurer and the Self-Insurers’ Security Fund (SISF) when making such a determination and allows SISF to inspect the private self-insurer’s recent actuarial study and current security deposit amount.

Senate File 3193-1A also includes the following changes to chapter 176:

- Adjusts to when fees may be charged as part of certain workers compensation dispute processes.
- Adds language allowing disputes to be certified within 30 days if certain conditions apply.
- Adds requirements for employers or insurers requesting a second opinion for nonemergency surgery.
- Requires the commissioner of labor and industry to adopt rules related to certain charges for medical bills and records.
- Includes requirements as to when reports or statements provided by an employer’s physician should be served to an injured employee and the attorney representing them.
- Includes a requirement that a good clause extension for a claim petition must be made within 120 days of services of the claim petition except in certain circumstances.
- Every two years beginning in 2026, requires the Workers’ Compensation Advisory Council to consider whether the existing permanent partial disability schedule represents adequate compensation for permanent impairment.
- Adjusts the conversion factors calculated for payments for hospital outpatient services.
- Requires the commissioner of labor and industry to study systemic or regulatory changes to improve the experiences or outcomes of employees with work-related post-traumatic stress disorder.
- Adds several housekeeping requirements including modifying the definition of the relative fee schedule and requiring employers to file notice of cessation of dependency benefits with the commissioner of labor and industry.

Assumptions

Commerce assumes the work required by the bill would not substantially add to or deviate from the existing overall role agency staff have monitoring workers’ compensation programs.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

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SF3193 - 1A - Insolvent Self-Insurer Modified

Chief Author: **Jennifer McEwen**
 Committee: **Finance**
 Date Completed: **5/8/2023 12:57:09 PM**
 Agency: **Administrative Hearings**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Chloe Burns **Date:** 5/4/2023 3:40:02 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

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1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

SF3193-1A, Article 1 modifies provisions for workers' compensation self-insurance in Minnesota Statutes, Chapter 79A. Article 2 amends Minnesota Statutes, Chapter 176 to improve Workers' Compensation system efficiencies by providing for DLI to adopt a schedule of reasonable charges for copies of certain medical records in Workers' Compensation disputes; allowing a judge to dismiss a claim petition that has been stricken for 180 days or more; allowing for a pretrial conference to be scheduled when an answer to a claim petition has not been filed on time. Article 3 requires WCAC to consider the adequacy of the permanent partial disability schedule in 176.101 subd. 2a starting in 2026 and in every even-year legislative session thereafter. Article 4 adjusts the conversion factors for the hospital outpatient fee schedule. Article 5 requires the Commissioner of the Minnesota Department of Labor and Industry (DLI) to conduct a study and report relating to employees with post-traumatic stress disorder.

Assumptions

The Office of Administrative Hearings (OAH) has used the assumptions of the Department of Commerce and Department of Labor and Industry that no new rulemaking costs would be incurred at OAH as a result of SF3193-1A.

OAH assumes that the current complement of workers' compensation judges employed by OAH is sufficient to manage the modifications to Chapter 176 that are included in SF3193-1A. No additional funds would be needed for this work.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Denise Collins

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SF3193 - 1A - Insolvent Self-Insurer Modified

Chief Author: **Jennifer McEwen**
 Committee: **Finance**
 Date Completed: **5/8/2023 12:57:09 PM**
 Agency: **Labor and Industry Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

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Total	-	220	288	99	36	
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Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Workers Compensation	-	.75	1	.25	-
Total	-	.75	1	.25	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karl Palm **Date:** 5/8/2023 12:54:12 PM
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State Cost (Savings) Calculation Details

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Total	-	220	288	99	36	
Biennial Total			508		135	
2 - Revenues, Transfers In*						
Workers Compensation	-	-	-	-	-	
Total	-	-	-	-	-	
Biennial Total			-		-	

Bill Description

-Article 1 of this bill requires a self-insurer to notify the Commissioner of Commerce prior to or immediately upon filing a bankruptcy petition and/or when it has been declared to be bankrupt and for the Commissioner of Commerce to call a self-insurer’s security deposit if that self-insurer has not paid its workers’ compensation benefits as required by chapter 176. The Commissioner of Labor and Industry (DLI) may consult with the Dept of Commerce about whether a self-insurer or commercial self-insurance group has failed to pay workers’ compensation benefits. If the self-insurer has failed to pay its workers’ compensation benefits, the Commissioner of Commerce may call the security deposit if they determine workers’ compensation benefits would be delayed in any way.

Article 2 amends Minn. Stat. chapter 176 to generate greater efficiencies in the workers’ compensation system as follows:

- Section 1: Outlines the dispute certification process at the Department of Labor and Industry (DLI) and clarifies when attorney fees are payable.
- Section 2: Clarifies that items customized to the injured worker are the property of the injured worker.
- Section 3: Adds response and request timelines for second opinions related to nonemergency surgery.
- Section 4: Creates a charge structure for copies of electronic medical records related to a workers’ compensation claim.
- Section 5: Adds a timeline by which a report produced by an employer’s physician must be served and to describe when an examination by an employer’s physician may be appropriate more than 120 days after an employee’s claim petition has been filed.
- Sections 6 and 7: Clarify what information and exhibits are considered during an administrative conference on benefit discontinuance.
- Section 8: Clarifies the information required on a claim petition filing and the timing for when a party asks an employee to furnish a list of providers or an authorization to release information relevant to a claim for benefits.
- Section 9: Allows a judge to dismiss a claim petition that has been stricken from the calendar for 180 days or more; and
- Section 10: Allows for a pretrial conference when an answer to a claim petition has not been timely filed.

Article 3 amends the permanent partial disability (PPD) schedule in Minn. Stat. § 176.101, subd. 2a, with a weighted increase to the listed PPD amounts. The amendment also requires the WCAC to consider whether the PPD schedule represents adequate compensation for permanent impairment during the 2026 legislation session, and every even year thereafter.

Article 4 provides for reductions over a period of three years, from 2023 through 2025, to the hospital outpatient fee schedule (HOFS) conversion factors used to determine payments under the HOFS. Section 2 repeals subdivision 6 of Minn. Stat. § 176.1364, which describes the criteria that must be met for the reductions in subdivision 3 to occur.

Article 5 requires the commissioner of DLI to conduct a study to identify systemic or regulatory changes to improve the experience and outcomes of employees with work-related post-traumatic stress disorder. Includes a \$500,000 appropriation for the commissioner to contract with a third-party to complete part or all of the study and hire additional staff to support. Effective the day following final enactment.

Article 6 of this bill makes various technical changes to Minn. Stat. chapter 176.

- Sections 1 and 2 make technical updates to two definitions.
- Section 3 gives the rehabilitation review panel oversight over appeals regarding approval of qualified rehabilitation consultant firms.
- Sections 4 and 5 relate to required notice of cessation of dependency benefits.
- Section 6 clarifies payment requirements for inpatient hospital charges; and
- Section 7 repeals Minn. Stat. § 176.223, related to the prompt first action report from DLI.

Assumptions

Article 1:

DLI assumes Article 1 will have no effect on the current operations of DLI's Special Compensation Fund (SCF). The claim obligations of self-insurers that exit self-insurance will be assumed by the Self-Insurers' Security Fund (SISF).

This bill may affect the Workers Compensation Division (WCD), if there are proceedings before the Department of Labor and Industry to determine liability for claim obligations, or if the Department must provide records and assistance to SISF to assist SISF in assuming liability for payment of benefits and services.

This bill may affect indemnity losses reported to DLI for assessment purposes, since SISF does not report losses or make payment of assessments to DLI. The net effect would likely be a reduction in indemnity losses reported by self-insurers, which would shift the responsibility of assessments to remaining self-insurers.

DLI assumes the work required by article 1 would not have a fiscal impact on DLI, and that any staff time spent would be negligible.

Article 2:

DLI assumes the work required by article 2 would not have a fiscal impact on DLI, and that any staff time spent would be negligible.

Article 3:

DLI assumes Article 3 will increase the financial exposure of the SCF, which pays impairment benefits to employees injured while employed by an uninsured employer on or after Oct. 1, 2023. The one-time proposed increase in the PPD benefit schedule will raise indemnity benefits paid by SCF by \$52,214, or 3% of their overall costs, each year.

DLI assumes all other work required by article 3 would not have a fiscal impact on DLI, and that any staff time spent would be negligible.

Article 4:

The SCF pays for outpatient hospital services of employees injured while employed by an uninsured employer and reimburses insurers for outpatient hospital services provided on subsequent or 'second' injury claims. DLI assumes Article 4 will decrease the financial exposure of the SCF for outpatient hospital services rendered between Oct. 1, 2024, and Sept. 30, 2026, by an estimated \$16,410, or 1% of their overall costs.

DLI assumes all other work required by article 4 would not have a fiscal impact on DLI, and that any staff time spent would be negligible.

Article 5:

The appropriation of \$500,000 under Article 5 would be used for contracting with an outside entity to complete the study and having dedicated DLI staff to assist in this work. DLI assumes that the appropriation will be distributed in FY23 and will be available through June 30, 2026.

Of the appropriated funds, the agency expects to need one Legal Analyst (MAPE 11L) and one Research Analysis Specialist (MAPE 10L) on an intermittent basis over a two-year period (from approximately Oct. 1, 2023, through Oct. 1, 2025) to assist with the study. Previous studies have involved significant legal and technical staffing resources and the addition of these staff will ensure that DLI has the resources necessary to complete a meaningful study.

With the remaining appropriated funds, DLI expects to contract with an outside entity to assist with the study. The amount available for the study is being driven by the language of the bill which goes beyond review of workers' compensation claims, the complexity of the study compared to past studies, and the number of entities that may be able to complete work on this study will be limited.

Article 6:

DLI assumes the work required by article 6 would not have a fiscal impact on DLI, and that any staff time spent would be negligible.

Expenditure and/or Revenue Formula

Legal Analyst (MAPE 11L)	2024	2025	2026	2027
FTE	0.375	0.5	0.125	0
Salary per FTE (midpoint)	68,764	72,950	72,950	-
Fringe Benefits (35% of Salary)	24,067	25,533	25,533	-
Indirect (22.89% of Salary/Fringe)	21,249	22,543	22,543	-
Salary / Fringe / Indirect	42,780	60,513	15,128	-
Non-Personnel Services	2,132	2,842	711	-
Cumulative Cost	44,912	63,355	15,839	-

Research Analysis Spec (MAPE 10L)	2024	2025	2026	2027
FTE	0.375	0.5	0.125	0
Salary per FTE (midpoint)	66,346	70,385	70,385	-
Fringe Benefits (35% of Salary)	23,221	24,635	24,635	-

Indirect (22.89% of Salary/Fringe)	20,502	21,750	21,750	-
Salary / Fringe / Indirect	41,276	58,385	14,596	-
Non-Personnel Services	2,132	2,842	711	-
Cumulative Cost	43,408	61,227	15,307	-

Cumulative Expenditures	2024	2025	2026	2027
PTSD Study	95,982	127,977	31,994	-
Legal Analyst (MAPE 11L)	44,912	63,355	15,839	-
Research Analysis Spec (MAPE 10L)	43,408	61,227	15,307	-
Indemnity Benefits (Article 3)	52,214	52,214	52,214	52,214
Outpatient Hospital Svcs (Article 4)	(16,410)	(16,410)	(16,410)	(16,410)
Total Cumulative Expenditures	220,105	288,363	98,943	35,804

Long-Term Fiscal Considerations

Local Fiscal Impact

Local governments will see an estimated \$263,800 increase in benefits paid, or 0.9% increase in their overall costs, each year due to the changes in Article 3 to the PPD schedule.

The reduction in the HOFs for outpatient hospital services rendered between Oct. 1, 2024, and Sept. 30, 2026, will reduce local governments' overall costs by an estimated \$249,357 or 0.8%.

References/Sources

Agency Contact: Kate Daly (651-284-5188)

Agency Fiscal Note Coordinator Signature: Jacob Gaub

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SF3193 - 1A - Insolvent Self-Insurer Modified

Chief Author: **Jennifer McEwen**
 Committee: **Finance**
 Date Completed: **5/8/2023 12:57:09 PM**
 Agency: **Minn Management and Budget**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Susan Nelson **Date:** 5/5/2023 1:48:37 PM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

State Cost (Savings) Calculation Details

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1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

Senate File 3193 requires a private self-insurer to notify the Commissioner of Commerce prior to or immediately upon filing a bankruptcy petition and/or when it has been declared to be bankrupt.

The bill requires the commissioner to call the private self-insurer’s security deposit if that private self-insurer has not paid its workers’ compensation benefits as required by chapter 176. If the private self-insurer has failed to pay its workers’ compensation benefits, the commissioner may call the security deposit if they determine workers’ compensation benefits would be delayed in any way. This determination is carried out in consultation with the Commissioner of Labor and Industry and must consider the self-insurer’s recent actuarial statements, claims history and projections, circumstances leading to the bankruptcy, as well as any other circumstances the commissioner deems relevant.

Commissioner of Commerce to also meet and confer with the private self-insurer and the Self-Insurers’ Security Fund (SISF) when making such a determination and allows SISF to inspect the private self-insurer’s recent actuarial study and current security deposit amount.

The bill allows the Commissioner of the MN Department of Labor and Industry (DLI) to consult with MN Dept of Commerce about whether a private self-insurer or commercial self-insurance group has failed to pay workers’ compensation benefits.

Specific to Minnesota Management and Budget (MMB), Sec. 2 Subd. 7 requires the creation of a security deposit with no claims by other parities. The security deposit is intended to be sent by the private self-insured to the Commissioner of Management and Budget for deposit. The security deposit is released when a surety bond (guarantee of debt) or irrevocable letter of credit for the full amount of incurred liabilities owed to the state is received or by requested return of deposit by the commissioner. Sec. 5 Subd. 10 requires that the commissioner shall immediately notify via certified mail the Commissioner of Management and Budget in the event of insolvency or certification of default by a private self-insured entity. Sec. 9 Subd. 4 further shares that the commissioner may send a request to renew, request to post, or request to increase a security deposit may result in additional funds being deposited with MMB.

Assumptions

MMB assumes the work required by the bill would not have a fiscal impact and that any staff time spent would be negligible and absorbable with existing staff.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact: Ronika Rampadarat 651-201-8115

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