

Senator McEwen from the Committee on Labor, to which was referred

S.F. No. 3407: A bill for an act relating to workers' compensation; adopting recommendations from the Workers' Compensation Advisory Council; amending Minnesota Statutes 2024, sections 176.011, subdivisions 9, 11; 176.041, subdivision 1; 176.135, subdivision 1; 176.151; 176.175, subdivision 2; 176.361, subdivision 2; 176.421, subdivision 4; repealing Minnesota Rules, part 5220.2840.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 7, insert:

**"ARTICLE 1
WORKERS' COMPENSATION"**

Page 13, after line 9, insert:

**"ARTICLE 2
OTHER INSURANCE POLICIES"**

Section 1. [79.101] ATTESTATION REQUIRED.

Subdivision 1. **Zero estimated exposure.** For purposes of this section, a "zero estimated exposure policy" has the meaning given in section 176.011, subdivision 19a. This section applies to zero estimated exposure policies issued to employers performing building construction or improvement services.

Subd. 2. **Attestation.** Each insurer shall require with or as part of each completed application for a zero estimated exposure policy a statement signed by the applicant attesting to the accuracy of the information on the application, including the applicant's absence of employees and estimated exposure of zero. The attestation shall include the following: "I attest that all information provided on this application is current, true, correct, accurate, and complete to the best of my knowledge and belief. I further attest that I have no employees and an estimated exposure of zero. If I employ any employees during the policy period, I must provide within 60 days of the employment written notification to my workers' compensation insurer of the employment, including estimated payroll and classification codes of my employees. I understand that omissions or misrepresentations with intent to defraud on this application are a crime under Minnesota Statutes, section 609.611."

EFFECTIVE DATE. This section is effective for policies issued or renewed on or after January 1, 2026.

2.1 Sec. 2. **[79.102] OWNER- AND CONTRACTOR-CONTROLLED INSURANCE**
2.2 **PROGRAMS.**

2.3 Subdivision 1. **Definitions.** (a) "Project sponsor" means a person who engages the
2.4 services of a contractor for the purpose of working on a single, specific, and large
2.5 construction, erection, or demolition project.

2.6 (b) "Owner-controlled insurance program" is a single, specific, and large construction,
2.7 erection, or demolition project for which a series of policies have been issued to a project
2.8 sponsor and two or more contractors or subcontractors engaged in the project to cover
2.9 liability for workers' compensation as provided in section 176.181.

2.10 (c) "Contractor-controlled insurance program" is a single, specific, and large construction,
2.11 erection, or demolition project for which a series of policies have been issued to a general
2.12 contractor or construction manager and two or more contractors or subcontractors engaged
2.13 in the project to cover liability for workers' compensation as provided in section 176.181.

2.14 (d) "Program" means either of the programs under paragraphs (b) or (c).

2.15 Subd. 2. **Approval.** (a) Owner- and contractor-controlled insurance programs must be
2.16 approved by the commissioner.

2.17 (b) Separate insurance policies must be issued to each eligible entity involved in the
2.18 program. Separate legal entities may be insured by one insurance policy in the program
2.19 only if the same person or group of persons own the majority interest in each such legal
2.20 entity.

2.21 Subd. 3. **Application.** (a) The commissioner, upon application of a project sponsor or
2.22 general contractor, shall approve or disapprove owner- and contractor-controlled insurance
2.23 programs within 60 days of receipt of a completed application. The commissioner shall
2.24 grant approval upon a determination that the project sponsor or general contractor has
2.25 provided all the information that is available at the time of application required in paragraph
2.26 (b) and that the program meets the following requirements:

2.27 (1) the project has an aggregate value in excess of \$100,000,000;

2.28 (2) the project is a specific construction, erection, or demolition project at a single
2.29 location or multiple related locations;

2.30 (3) the project generates a combined \$500,000 or more in annual written workers'
2.31 compensation premiums in Minnesota for the policies issued to all employers as part of the
2.32 program;

3.1 (4) the project sponsor, contractors, or subcontractors in the program have not been
3.2 convicted of a crime involving insurance fraud as defined in section 609.611; and

3.3 (5) the program's proposed insurer's rates and rating plan for the program have been
3.4 approved by the commissioner pursuant to section 79.56, subdivision 1, paragraph (a).

3.5 (b) A project sponsor or general contractor must provide the following information
3.6 regarding the project and each individual contractor and subcontractor involved in the
3.7 program as part of the application to the commissioner:

3.8 (1) the name of the proposed insurer;

3.9 (2) project location and address;

3.10 (3) project sponsor name, address, and telephone number;

3.11 (4) addresses and telephone numbers for all contractors and subcontractors in the program;

3.12 (5) estimated project duration;

3.13 (6) estimated payroll for the project;

3.14 (7) estimated number of employees for the project;

3.15 (8) classification code or primary business code for the project;

3.16 (9) professional or occupational licenses for all contractors in the program;

3.17 (10) any professional or occupational license discipline or suspension for all contractors
3.18 in the program;

3.19 (11) any criminal charges or convictions for insurance fraud as defined in section 609.611
3.20 of any individuals in the program; and

3.21 (12) any bankruptcy or receivership proceedings for any legal entities in the program.

3.22 (c) Every three months during the course of a project of an approved program, the project
3.23 sponsor or general contractor must provide to the commissioner any updates to the application
3.24 information required by paragraph (b).

3.25 (d) The commissioner may share with a licensed data service organization information
3.26 concerning approved programs. A licensed data service organization must provide upon
3.27 request to the commissioner any policy issued to an employer involved in an approved
3.28 program.

3.29 (e) An approved program's insurance policies shall provide that upon cancellation of a
3.30 policy prior to completion of the construction project, the project sponsor or contractor must

either replace the insurance or pay the contractor or subcontractor to obtain replacement insurance in an amount equal to the premium paid by the contractor or subcontractor to obtain replacement insurance for the duration of the project.

(f) A project sponsor or general contractor applying for approval of an owner-controlled insurance program or a contractor-controlled insurance program must pay a nonrefundable application fee of \$2,500.

Subd. 4. **Exclusion.** No contractor or subcontractor involved in an approved program may have a zero estimated exposure policy as defined in section 176.011, subdivision 19a, for its work on the program's project.

Subd. 5. **Policy forms and rates.** (a) An approved program's insurer must use forms and auditing standards of a licensed data service organization.

(b) An approved program's insurer must use the experience rating plan of a licensed data service organization.

(c) An approved program's policy deductible or retrospective rating plan retention must be no less than \$50,000 and no more than \$1,000,000. The deductible or retrospective rating plan retention must not be higher than the program's insurer's applicable Workers' Compensation Reinsurance Association retention limit.

(d) To the extent an approved program's insurer deviates from the rates and rating plan approved by the commissioner when determining rates for each employer in the program, the insurer shall submit to the commissioner data and calculations used by the insurer to calculate the deviations within 60 days of the program's policies' effective date.

Subd. 6. **Payroll records.** A project sponsor or general contractor of an approved program must obtain payroll records for the project from all contractors and subcontractors in the program at the time of premium audit. The project sponsor or general contractor shall maintain the payroll records under this subdivision for three years after the date of completion of the project.

Subd. 7. **Notice required.** All contractors and subcontractors participating in an approved program shall be provided with a copy of the insurance policy that covers their employees. The project sponsor, general contractor, or construction manager shall post the notice required by section 176.139, subdivision 1, at all job sites in English and Spanish, including information about how to submit a claim for compensation under the program's policy or policies. Upon request, contractors and subcontractors must furnish this information to an employee covered by the program in a language that the employee understands.

5.1 Subd. 8. **Audits.** The commissioner is authorized to conduct audits and investigations
5.2 under section 45.027 to determine if insurers and approved owner- and contractor-controlled
5.3 insurance programs are complying with Minnesota law in the issuance of policies described
5.4 in this section.

5.5 **EFFECTIVE DATE.** This section is effective January 1, 2026.

5.6 Sec. 3. Minnesota Statutes 2024, section 176.011, is amended by adding a subdivision to
5.7 read:

5.8 Subd. 19a. **Zero estimated exposure policy.** "Zero estimated exposure policy" means
5.9 a policy of insurance that an employer obtains to cover the employer's liability to pay
5.10 compensation under this chapter after reporting the employer's total estimated exposure is
5.11 zero.

5.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.13 Sec. 4. Minnesota Statutes 2024, section 176.185, subdivision 11, is amended to read:

5.14 Subd. 11. **Employment and insurance data.** (a) The following workers' compensation
5.15 insurance coverage data reported to or collected by the department under this section, or
5.16 otherwise created or received by the department, is public data required to be reported by
5.17 an insurer, subject to the limitations provided in paragraph (b):

5.18 (1) all action on an insurance policy, but not including the policy itself. Examples of
5.19 action on a policy are the date of issuance of a new policy, the date of cancellation, or copies
5.20 of a correction, binder, reinstatement, expiration, cancellation, termination, or declaration
5.21 page;

5.22 (2) the employer's legal name;

5.23 (3) every "doing business as" name used by the employer;

5.24 (4) the employer's legal form of ownership, such as corporation, partnership, limited
5.25 partnership, or government entity, and the names of all owners and partners including, for
5.26 limited partnerships, the names of general partners;

5.27 (5) the employer's complete mailing and physical addresses;

5.28 (6) the nature of the employer's business;

5.29 (7) the policy number;

5.30 (8) the effective and expiration dates of the policy;

6.1 (9) the name of the insurance carrier;

6.2 (10) if the policy has been canceled, the type of cancellation, reason for cancellation,
6.3 and effective date of cancellation; ~~and~~

6.4 (11) the employer's unemployment account number; and

6.5 (12) the employer's total estimated exposure amount for a zero estimated exposure policy
6.6 and the employer's reported construction classification codes for a zero estimated exposure
6.7 policy.

6.8 (b) The commissioner shall release the insurance coverage data listed in paragraph (a)
6.9 only in response to an inquiry about an employer in which the requester provides employer
6.10 identifying information required by the commissioner. The commissioner or an entity with
6.11 whom the department has contracted pursuant to subdivision 10 shall provide a website for
6.12 such public inquiries and may impose access restrictions necessary to limit access to
6.13 individual inquiries and to otherwise deter the use of the website for purposes other than
6.14 insurance verification. Persons who obtain the data prescribed in paragraph (a) from the
6.15 department are prohibited from using the data for commercial purposes.

6.16 (c) For purposes of this subdivision, "employer" includes a policyholder and any other
6.17 entities listed on the same insurance policy as the employer.

6.18 (d) For purposes of this subdivision, "commercial purposes" means the sale or use of
6.19 insurance coverage data listed in paragraph (a) for marketing or profit.

6.20 (e) An entity with whom the department has contracted pursuant to subdivision 10 has
6.21 a private right of action to enforce the prohibition in paragraph (b) against a person who
6.22 uses the data for commercial purposes. The entity may bring a civil action to recover damages
6.23 and costs and disbursements, including reasonable attorney fees, from the person, and for
6.24 other equitable relief as determined by the court.

6.25 **EFFECTIVE DATE.** This section is effective January 1, 2026.

6.26 Sec. 5. Minnesota Statutes 2024, section 176.185, is amended by adding a subdivision to
6.27 read:

6.28 **Subd. 12. Policies with zero estimated exposure.** If an employer providing or performing
6.29 building construction or improvement services obtains a zero estimated exposure policy,
6.30 the employer must provide written notification to all entities the employer directly contracts
6.31 with to provide or perform building construction or improvement services of the employer's
6.32 total estimated exposure of zero and provide a copy of the policy. When an entity receives

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the notification under this subdivision, the entity must maintain the written notification and

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policy provided for three years from the date the notification and policy were received.

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EFFECTIVE DATE. This section is effective January 1, 2026."

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Amend the title accordingly

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And when so amended the bill do pass and be re-referred to the Committee on Finance.

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Amendments adopted. Report adopted.

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(Committee Chair)

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May 9, 2025.....

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(Date of Committee recommendation)