

1.1 A bill for an act  
 1.2 relating to workers' compensation; adopting 2026 recommendations of the Workers'  
 1.3 Compensation Advisory Council; amending Minnesota Statutes 2024, sections  
 1.4 79.34, subdivisions 3, 4; 79.35; 79.36; 79.362; 79.38, subdivision 1; 175A.05, by  
 1.5 adding a subdivision; 176.081, subdivision 9; 176.322; repealing Minnesota Statutes  
 1.6 2024, sections 79.34, subdivision 2a; 79.361; 79.363.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2024, section 79.34, subdivision 3, is amended to read:

1.9 Subd. 3. **Withdrawal from association.** An insurer may withdraw from the reinsurance  
 1.10 association only upon ceasing to be authorized by license issued by the commissioner of  
 1.11 commerce to transact workers' compensation insurance in this state and when all workers'  
 1.12 compensation insurance policies issued by such insurer have expired; a self-insurer may  
 1.13 withdraw from the reinsurance association only upon ceasing to be approved to self-insure  
 1.14 workers' compensation liability in this state pursuant to section 176.181.

1.15 An insurer or self-insurer which withdraws or whose membership in the reinsurance  
 1.16 association is terminated shall continue to be bound by the plan of operation. Upon  
 1.17 withdrawal or termination, all unpaid premiums which have been charged to the withdrawing  
 1.18 or terminated member and any other outstanding amounts owed shall be payable as of the  
 1.19 effective date of the withdrawal or termination.

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

1.21 Sec. 2. Minnesota Statutes 2024, section 79.34, subdivision 4, is amended to read:

1.22 Subd. 4. **Liabilities of insolvent members.** An unsatisfied net liability to the reinsurance  
 1.23 association of an insolvent member shall be ~~assumed by and apportioned among the~~

2.1 ~~remaining members of the reinsurance association as provided in the plan of operation~~  
 2.2 governed by the plan of operation effective at the time a member is declared insolvent by  
 2.3 a state regulatory authority or a court of competent jurisdiction, whichever comes earlier.  
 2.4 The reinsurance association shall have all rights allowed by law on behalf of the remaining  
 2.5 members against the estate or funds of the insolvent member for sums due the reinsurance  
 2.6 association.

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

2.8 Sec. 3. Minnesota Statutes 2024, section 79.35, is amended to read:

2.9 **79.35 DUTIES; RESPONSIBILITIES; POWERS.**

2.10 The reinsurance association shall do the following on behalf of its members:

2.11 (1) assume 100 percent of the liability as provided in section 79.34;

2.12 (2) establish procedures by which members shall promptly report to the reinsurance  
 2.13 association each claim which, on the basis of the injury sustained, may reasonably be  
 2.14 anticipated to involve liability to the reinsurance association if the member is held liable  
 2.15 under chapter 176. Solely for the purpose of reporting claims, the member shall in all  
 2.16 instances consider itself legally liable for the injury. The member shall advise the reinsurance  
 2.17 association of subsequent developments likely to materially affect the interest of the  
 2.18 reinsurance association in the claim;

2.19 (3) maintain relevant loss and expense data relative to all liabilities of the reinsurance  
 2.20 association and require each member to furnish statistics in connection with liabilities of  
 2.21 the reinsurance association at the times and in the form and detail as may be required by  
 2.22 the plan of operation;

2.23 (4) calculate and charge to members a total premium sufficient to cover the expected  
 2.24 liability which the reinsurance association will incur, together with incurred or estimated  
 2.25 to be incurred operating and administrative expenses for the period to which this premium  
 2.26 applies. Each member shall be charged a premium established by the board as sufficient to  
 2.27 cover the reinsurance association's incurred liabilities and expenses in excess of the member's  
 2.28 selected retention limit. Each member shall be charged a proportion of the total premium  
 2.29 calculated for its selected retention limit in an amount equal to its proportion of the exposure  
 2.30 base of all members during the period to which the reinsurance association premium will  
 2.31 apply. The exposure base shall be determined by the board and is subject to the approval  
 2.32 of the commissioner of labor and industry. In determining the exposure base, the board shall  
 2.33 consider, among other things, equity, administrative convenience, records maintained by

3.1 members, amenability to audit, and degree of risk refinement. ~~Each member shall also be~~  
3.2 ~~charged a premium determined by the board to equitably distribute excess or deficient~~  
3.3 ~~premiums from previous periods including any excess or deficient premiums resulting from~~  
3.4 ~~a retroactive change in the prefunded limit.~~ The premiums charged to members shall not  
3.5 be unfairly discriminatory as defined in section 79.074. All premiums shall be approved by  
3.6 the commissioner of labor and industry;

3.7 (5) require and accept the payment of premiums from members of the reinsurance  
3.8 association;

3.9 (6) receive and distribute all sums required by the operation of the reinsurance association;

3.10 (7) establish procedures for reviewing claims procedures and practices of members of  
3.11 the reinsurance association. If the claims procedures or practices of a member are considered  
3.12 inadequate to properly service the liabilities of the reinsurance association, the reinsurance  
3.13 association may undertake, or may contract with another person, including another member,  
3.14 to adjust or assist in the adjustment of claims which create a potential liability to the  
3.15 association. The reinsurance association may charge the cost of the adjustment under this  
3.16 paragraph to the member, except that any penalties or interest incurred under sections  
3.17 176.183, 176.221, 176.225, and 176.82 as a result of actions by the reinsurance association  
3.18 after it has undertaken adjustment of the claim shall not be charged to the member but shall  
3.19 be included in the ultimate loss and listed as a separate item; ~~and~~

3.20 (8) provide each member of the reinsurance association with an annual report of the  
3.21 operations of the reinsurance association in a form the board of directors may specify;

3.22 (9) equitably distribute excess or deficient premiums from previous periods to members  
3.23 based on amounts determined by the board. All excess or deficient premiums shall be  
3.24 approved by the commissioner of labor and industry;

3.25 (10) distribute excess surplus as recommended by the board and approved by order of  
3.26 the commissioner of labor and industry consistent with section 79.362; and

3.27 (11) collect deficiency assessments as recommended by the board and approved by order  
3.28 of the commissioner of commerce consistent with section 79.362.

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

4.1 Sec. 4. Minnesota Statutes 2024, section 79.36, is amended to read:

4.2 **79.36 ADDITIONAL POWERS.**

4.3 In addition to the powers granted in section 79.35, the reinsurance association may do  
4.4 the following:

4.5 (1) sue and be sued. A judgment against the reinsurance association shall not create any  
4.6 direct liability against the individual members of the reinsurance association. The reinsurance  
4.7 association shall provide in the plan of operation for the indemnification, to the extent  
4.8 provided in the plan of operation, of the members, members of the board of directors of the  
4.9 reinsurance association, and officers, employees and other persons lawfully acting on behalf  
4.10 of the reinsurance association;

4.11 (2) reinsure all or any portion of its potential liability, ~~including potential liability in~~  
4.12 ~~excess of the prefunded limit,~~ with reinsurers licensed to transact insurance in this state or  
4.13 otherwise approved by the commissioner of labor and industry;

4.14 (3) provide for appropriate housing, equipment, and personnel as may be necessary to  
4.15 assure the efficient operation of the reinsurance association;

4.16 (4) contract for goods and services, including but not limited to independent claims  
4.17 management, actuarial, investment, and legal services from others within or without this  
4.18 state to assure the efficient operation of the reinsurance association;

4.19 (5) adopt operating rules, consistent with the plan of operation, for the administration  
4.20 of the reinsurance association, enforce those operating rules, and delegate authority as  
4.21 necessary to assure the proper administration and operation of the reinsurance association;

4.22 (6) intervene in or prosecute at any time, including but not limited to intervention or  
4.23 prosecution as subrogee to the member's rights in a third-party action, any proceeding under  
4.24 this chapter or chapter 176 in which liability of the reinsurance association may, in the  
4.25 opinion of the board of directors of the reinsurance association or its designee, be established,  
4.26 or the reinsurance association affected in any other way;

4.27 (7) the net proceeds derived from intervention or prosecution of any subrogation interest,  
4.28 or other recovery, shall first be used to reimburse the reinsurance association for amounts  
4.29 paid or payable pursuant to this chapter, together with any expenses of recovery, including  
4.30 attorney's fees, and any excess shall be paid to the member or other person entitled thereto,  
4.31 as determined by the board of directors of the reinsurance association, unless otherwise  
4.32 ordered by a court;

5.1 (8) hear and determine complaints of a company or other interested party concerning  
5.2 the operation of the reinsurance association; and

5.3 (9) perform other acts not specifically enumerated in this section which are necessary  
5.4 or proper to accomplish the purposes of the reinsurance association and which are not  
5.5 inconsistent with sections 79.34 to 79.40 or the plan of operation.

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

5.7 Sec. 5. Minnesota Statutes 2024, section 79.362, is amended to read:

5.8 **79.362 WORKERS' COMPENSATION REINSURANCE ASSOCIATION EXCESS**  
5.9 **SURPLUS DISTRIBUTION OR DEFICIENCY ASSESSMENT.**

5.10 **Subdivision 1. Scope.** This section governs excess surplus distributions and deficiency  
5.11 assessment of the reinsurance association. An excess surplus distribution is not a distribution  
5.12 of excess premiums to members. The reinsurance association may not distribute excess  
5.13 surplus or assess members due to a deficiency except as provided for in this section. For  
5.14 purposes of this section, "insured employers" includes employers insured by insurer members  
5.15 and employers insured by the assigned risk plan.

5.16 **Subd. 2. Declaration of distribution or assessment.** (a) The board may declare an  
5.17 excess surplus distribution to self-insurer members and insured employers. The board shall  
5.18 determine the amount of excess surplus and set a timeline, a distribution rate for self-insurer  
5.19 members, and a distribution rate for insured employers as applied to the distribution exposure  
5.20 bases of self-insurer members and insured employers. The board shall notify the  
5.21 commissioner of labor and industry of the amount of excess surplus and recommended  
5.22 distribution rates and, if the commissioner is in agreement with the board's recommendation,  
5.23 the commissioner shall issue an order approving the recommended distribution.

5.24 (b) An order of the commissioner of ~~the Department of~~ labor and industry relating to  
5.25 the ~~distribution of~~ excess surplus distribution of the Workers' Compensation Reinsurance  
5.26 Association shall be reviewed by the commissioner of commerce. The commissioner of  
5.27 commerce may amend, approve, or reject an order or issue further orders to accomplish the  
5.28 purposes of this section ~~79.361 and Laws 1993, chapter 361, section 2.~~ The commissioner  
5.29 of commerce may not change the amount of the distribution ordered by the commissioner  
5.30 of labor and industry without agreement of the commissioner of labor and industry.

5.31 (c) If the board determines that an excess surplus distribution resulted in inadequate  
5.32 funds being available to pay claims that arose during the period upon which the distribution  
5.33 was calculated, the board shall determine the amount of the deficiency. The board shall

6.1 notify the commissioner of commerce of the amount of deficiency and recommend  
 6.2 assessment rates and the time period for an assessment for self-insurer members and insured  
 6.3 employers. The commissioner of commerce shall order an assessment at the rates and for  
 6.4 the time period necessary to eliminate the deficiency with consideration of potential financial  
 6.5 hardship to employers. The assessment rates shall be applied to the exposure bases of  
 6.6 self-insured employers and insured employers. All assessments under this section are payable  
 6.7 to the association. The commissioner of commerce may issue orders necessary to administer  
 6.8 this section.

6.9 Subd. 3. **Administration of distribution or assessment.** The reinsurance association  
 6.10 may consider the actual and reasonable costs of distribution or assessment in determining  
 6.11 the amount to be distributed or assessed. The excess surplus distribution or deficiency  
 6.12 assessment may not be retroactive and applies only prospectively. Self-insurer members,  
 6.13 insurer members, and the Minnesota Workers' Compensation Insurers Association must  
 6.14 provide any information to the reinsurance association that the association determines  
 6.15 necessary to administer this section. Any part of the excess surplus distribution not distributed  
 6.16 within one year due to the inability to identify or locate insured employers remains with the  
 6.17 reinsurance association and must not be distributed to its members.

6.18 Subd. 4. **Plan of operation.** The reinsurance association's plan of operation must provide  
 6.19 the method for determining rates and exposure bases, the method for excess surplus  
 6.20 distribution, and the method of collecting a deficiency assessment. For multiyear distributions  
 6.21 or assessments, the exposure bases and rates shall be recalculated for each policy year of  
 6.22 the excess surplus distribution or deficiency assessment.

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

6.24 Sec. 6. Minnesota Statutes 2024, section 79.38, subdivision 1, is amended to read:

6.25 Subdivision 1. **Provisions.** The plan of operation shall provide for all of the following:

6.26 (a) the establishment of necessary facilities;

6.27 (b) the management and operation of the reinsurance association;

6.28 (c) a preliminary premium, payable by each member in proportion to its total premium  
 6.29 in the year preceding the inauguration of the reinsurance association, for initial expenses  
 6.30 necessary to commence operation of the reinsurance association;

6.31 (d) procedures to be utilized in charging premiums, ~~including adjustments from excess~~  
 6.32 ~~or deficient premiums from prior periods;~~

- 7.1 (e) procedures governing the actual payment of premiums to the reinsurance association;
- 7.2 (f) reimbursement of each member of the board by the reinsurance association for actual  
7.3 and necessary expenses incurred on reinsurance association business;
- 7.4 (g) the composition, terms, compensation and other necessary rules consistent with  
7.5 section 79.37 for boards of directors of the reinsurance association;
- 7.6 (h) the investment policy of the reinsurance association; ~~and~~
- 7.7 (i) the method for determining rates and exposure bases, the method for excess surplus  
7.8 distribution, and the method of collecting a deficiency assessment; and
- 7.9 ~~(i)~~ (j) any other matters required by or necessary to effectively implement sections 79.34  
7.10 to 79.40.

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

7.12 Sec. 7. Minnesota Statutes 2024, section 175A.05, is amended by adding a subdivision to  
7.13 read:

7.14 **Subd. 4. Active compensation judges.** If the number of Workers' Compensation Court  
7.15 of Appeals judges available to hear a case is insufficient to constitute a quorum and retired  
7.16 judges are not available to meet the quorum requirement, the chief judge of the Workers'  
7.17 Compensation Court of Appeals may, with the consent of the chief judge of the Court of  
7.18 Administrative Hearings, assign an active compensation judge from that court to hear any  
7.19 case properly assigned to a judge of the Workers' Compensation Court of Appeals. The  
7.20 compensation judge assigned to the case may act on that case with the full powers of a judge  
7.21 of the Workers' Compensation Court of Appeals. A compensation judge performing this  
7.22 service shall receive pay and expenses, calculated on an hourly basis, in the amount and  
7.23 manner provided by law for judges serving on the Workers' Compensation Court of Appeals.  
7.24 This compensation will be paid as an adjustment to the judge's normal compensation from  
7.25 the Court of Administrative Hearings. The Workers' Compensation Court of Appeals will  
7.26 reimburse the Court of Administrative Hearings based on the number of hours spent  
7.27 performing this service and any other expenditures incurred.

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

7.29 Sec. 8. Minnesota Statutes 2024, section 176.081, subdivision 9, is amended to read:

7.30 **Subd. 9. Retainer agreement.** An attorney who is hired by an employee to provide legal  
7.31 services with respect to a claim for compensation made pursuant to this chapter shall prepare

8.1 a retainer agreement in which the provisions of this section are specifically set out and  
 8.2 provide a copy of this agreement to the employee. The retainer agreement shall provide a  
 8.3 space for the signature of the employee. A signed agreement shall raise a conclusive  
 8.4 presumption that the employee has read and understands the statutory fee provisions. No  
 8.5 fee shall be awarded pursuant to this section in the absence of a signed retainer agreement.

8.6 The retainer agreement shall contain a notice to the employee regarding the maximum  
 8.7 fee allowed under this section in ten-point type, which shall read:

8.8 **Notice of Maximum Fee**

8.9 The maximum fee allowed by law for legal services is 20 percent of the first ~~\$130,000~~  
 8.10 \$275,000 of compensation awarded to the employee subject to a cumulative maximum fee  
 8.11 of ~~\$26,000~~ \$55,000 for fees related to the same injury.

8.12 The employee shall take notice that the employee is under no legal or moral obligation  
 8.13 to pay any fee for legal services in excess of the foregoing maximum fee.

8.14 **EFFECTIVE DATE.** This section is effective the day following final enactment and  
 8.15 applies to dates of injury on or after October 1, 2024.

8.16 Sec. 9. Minnesota Statutes 2024, section 176.322, is amended to read:

8.17 **176.322 DECISIONS BASED ON STIPULATED FACTS.**

8.18 If the parties agree to a stipulated set of facts and only legal issues remain, the  
 8.19 commissioner or compensation judge may determine the matter without a hearing based  
 8.20 upon the stipulated facts and the determination is appealable to the court of appeals pursuant  
 8.21 to sections 176.421 and 176.442. In any case where a stipulated set of facts has been  
 8.22 submitted to the Court of Administrative Hearings pursuant to this section, upon receipt of  
 8.23 the file or the stipulated set of facts the chief administrative law judge shall immediately  
 8.24 assign the case to a compensation judge for a determination. The commissioner or  
 8.25 compensation judge shall issue a determination within 60 days after receipt of the stipulated  
 8.26 facts.

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

8.28 Sec. 10. **REPEALER.**

8.29 Minnesota Statutes 2024, sections 79.34, subdivision 2a; 79.361; and 79.363, are repealed.