

Legislative Analysis



MCCA AMENDMENTS

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House Bill 4427

Sponsor: Rep. Kate Segal

House Bill 4471

Sponsor: Rep. Dan Scripps

Committee: Insurance

Complete to 3-17-09

A SUMMARY OF HOUSE BILL 4427 AS INTRODUCED 2-24-09 AND HOUSE BILL 4471 AS INTRODUCED 2-26-09

The bills would require the Michigan Catastrophic Claims Association (MCCA) to comply with the Open Meetings Act and the Freedom of Information Act. They also would require an annual audit of the MCCA conducted by an independent certified public accountant, with the audit to be presented to the Legislature and the Commissioner of the Office of Financial and Insurance Regulation.

The MCCA is a statutorily mandated nonprofit association made up of the companies writing automobile insurance in the state. It functions as a reinsurer under Michigan's compulsory no-fault auto insurance system, which provides unlimited lifetime medical and rehabilitation benefits. An auto insurance company is responsible for a specified amount of a personal injury protection (PIP) claim, with the MCCA responsible for amounts above that. [The MCCA picks up claims at \$440,000 until June 30, 2009; \$460,000 until June 30, 2010; \$480,000 until June 30, 2011, and \$500,000 until June 30, 2013. From then on, the threshold is to be increased every two years by inflation or six percent, whichever is less. These MCCA thresholds are established in the Insurance Code.]

The member insurance companies are charged a premium to cover the expected losses of the association, with the premium based, generally speaking, on the amount of a company's business in the state. Typically, an assessment to support the MCCA is placed on each auto insured under a no-fault policy, as well as each motorcycle.

The bills would make amendments to the operations of the MCCA in the following ways.

House Bill 4427 would amend the Insurance Code (MCL 500.134 and 500.3104) to require the MCCA to comply with the Open Meetings Act and the Freedom of Information Act. Specifically, the business of the board would have to be conducted at a public meeting held in compliance with the Open Meetings Act, and a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function would be subject to the Freedom of Information Act.

The bill also would require that an independent certified public accountant appointed by the commissioner of the Office of Financial and Insurance Regulation annually conduct an audit of the MCCA and deliver it to the commissioner and to the standing committees on insurance issues in the House of Representatives and the Senate. In conducting the audit, the appointed CPA would have access to all records of the association. Each audit would have to include a determination of whether the association was likely to be able to continue to meet its obligations.

House Bill 4471 would amend the Open Meetings Act (MCL 15.262 and 15.263) to bring the MCCA under its jurisdiction. The association would be included within the act's definition of "public body." However, the act would not apply to the MCCA "when deliberating the merits of a case."

BACKGROUND INFORMATION:

For additional information on the MCCA, see the website of the Office of Financial and Insurance Regulation (OFIR), which includes copies of recent financial statements, actuarial opinions, CPA reports, the MCCA's plan of operations, a history of MCCA assessments, and other documents concerning the MCCA. See: [www.michigan.gov/dleg/0,1607,7-154-10555_13222_13224---,00.html].

The MCCA website, [www.michigancatastrophic.com] contains much of the same information. Additionally, another website, [www.guidestar.org] contains copies of the MCCA's IRS Form 990 Returns (as well as the 990's of other nonprofit organizations) for recent years.

FISCAL IMPACT:

There is no apparent fiscal impact on the State of Michigan or local units of government. The bill does not specify who must pay for the independent audit. If the audit is the responsibility of OFIR, the state would incur additional costs.

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