

## on comp this session

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The 2002 Regular Session is now history--in more ways than one. While it is in the history books by virtue of having ended last Friday evening, it will doubtless be remembered by claimant's attorneys as being historic for having passed a bill that is FAVORABLE to both workers and the comp. system in general. The bill is CS for CS for SB 108 (hereinafter SB 108). A copy of the final version is attached for your reference, but here is a brief recap of what passed:

1. No change in PTD
2. No change in the statutory fee schedule. [Only 440.34(3)(d) was amended to make attorneys fees attach 30 days after the carrier or employer receives the petition.]
3. Does away with the RFA procedure.
4. Mandates that carrier pay for private mediation if state mediators are unavailable within 90 days from PFB.
5. Eliminates the dollar cap on IMEs.
6. Expands the firefighter presumption to all law enforcement officers (including local ones) and correctional officers.
7. Requires parties to prepare a pretrial stipulation before the conclusion of the mediation conference if the case doesn't settle.
8. Eliminates exemptions for commercial building projects estimated to be valued at over \$250,000.00.
9. Requires the 3-Member Panel to submit recommendations to the Legislature biennially on methods to improve the health care delivery system
10. Revises the managed-care opt-out provision to clarify that discontinuance of the managed care arrangement shall be without regard to the date of accident.
11. Requires the final hearing to be held within 210 days of a PFB.
12. Provides that benefits are waived if not raised at the final hearing if found to be ripe, due and owing.
13. Requires medical benefits of \$5,000 or less to be resolved through the expedited dispute resolution process.
14. Allows JCCs to dismiss a PFB for lack of prosecution without a hearing if petition, response, motion, order, request for hearing, or notice of deposition has not been filed during the previous 12 months.
15. Requires employers to add to the notice posted in a conspicuous place at their place of business a notice that rewards of up to \$25,000 may be paid to persons reporting insurance fraud to the Dept. of Insurance.
16. Creates an administrative fine of \$500 against persons for non-compliance with Chap. 440.
17. Requires DOI to conduct a study and report to the Legislature by Feb. 1, 2003, of the response of the insurance market in meeting the need for coverage among construction industry employers and review coverage in other states.
18. If the bill is not vetoed by the Governor, it will take effect on July 1, 2002.

The successful passage of SB 108 was the product of a unified team effort that involved members of FWA; the Academy; the Comp. Section of the Florida Bar; Voices, the lobbyists and staff of all of the above; our public relations consultant; and, of course, key members of the Legislature. Success is also attributable to close cooperation with several labor groups and the Florida Medical Association.

What made the ultimate outcome especially sweet was the absence in SB 108 of many onerous provisions backed by AIF and the Business Coalition which were found in the House and Senate bills (HB 1947 and SB 2304). The team effort resulted in KILLING such provisions as the following:

- o Termination of PTD at age 72
- o Elimination of the Social Security Standard in 440.02 (37)
- o Capping of hourly fees at \$1500 per accident for medical-only cases
- o Termination of PT Supps at age 62, i.e., "the Burger King fix"
- o IBs for psychiatric impairment limited to 1% (3 weeks)
- o Provision giving employer/carrier no duty to preserve evidence pertaining to an industrial accident or injuries arising from the accident

disease and repetitive exposure cases

- o Allowing employees only one change of physician during the course of treatment for any one accident

- o A so-called "Turner Fix" which would have reversed the Turner case by showing intent to commit bodily injury or death subjectively as opposed to objectively.