2017-2018 General Assembly

SENATE BILL 99: Appropriations Act of 2018, Sec. 22.1: Workers' Compensation/Allow Alternative Employer Penalty

Committee:		**Date:**	August 13, 2018
Introduced by:		**Prepared by:**	Jeremy Ray Staff Attorney
Analysis of:	Sec. 22.1 of S.L. 2018-5		

OVERVIEW:* *Sec. 22.1 of S.L. 2018-5 reduces the penalty for employers in noncompliance with the coverage requirements of the Workers' Compensation Act (the Act) for employers with fewer than fifty employees, provides an alternative penalty for first-time noncompliant employers, and prohibits assessment of a penalty for a period of noncompliance that occurred more than three years prior to the date the penalty was first assessed. This section became effective July 1, 2018.

CURRENT LAW: G.S. 97-93 requires employers subject to the compensation provisions of the Act to either carry insurance coverage, or prove the financial ability to pay for workers' compensation benefits to its employees. G.S. 97-94 provides penalties to employers who refuse or neglect to secure these coverage requirements. The amount of the penalty for noncompliance is based on the size of the work force and the duration of the noncompliance. The penalty for an employer who employs:

- Between 3 and 50 employees is $50 per day of noncompliance.
- Between 51 and 100 employees is $1 per employee per day of noncompliance.
- More than 100 employees is $100 per day of noncompliance.

BILL ANALYSIS: Sec. 22.1 of S.L. 2018-5 reduces the minimum penalty for employers with between 3 and 20 employees to $20 per day. For employers with between 21 and 49 employees, the penalty is reduced from $50 per day to $1 per employee per day. The penalty for each day of noncompliance is unchanged for employers with 50 or more employees. It also gives an employer who has not previously been penalized the opportunity to qualify for an alternative penalty by submitting evidence to the Industrial Commission (Commission) that the employer has obtained workers' compensation insurance coverage. Upon verification of coverage, the Commission must rescind the original penalty and impose a new penalty in an amount calculated by:

(1) First, determining the per employee cost of the current policy by dividing the cost of the policy by the number of employees covered under the policy.

(2) Second, determining the average number of employees during the time of non-compliance.

(3) Third, multiplying the per employee cost of the current policy by the average number of employees during the period of noncompliance and, to that total, by applying an additional penalty of ten percent (10%).

This section also prohibits the Commission from assessing a penalty for a period of noncompliance occurring more than three years before the date the penalty is first assessed.

EFFECTIVE DATE: This section became effective July 1, 2018.

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