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Labor Industry SAWCA 1949

SOUTHERN ASSOCIATION OF WORKERS' COMPENSATION ADMINISTRATORS

Resolution

Favoring Continued State Workers' Compensation Systems and Opposing Federal Intrusion

WHEREAS, the state workers' compensation system has successfully and effectively protected injured workers, employers, and the public against job-related injury and illness for more than 100 years; and

WHEREAS, Congress is considering proposals, such as H.R. 635, which will establish a *federal* commission to decide the adequacy of *state* workers' compensation laws and mandate alternative or additional remedies; and

WHEREAS, state workers' compensation programs are a fundamental part of each state's social, economic, and legal fabric; and

WHEREAS, the states regularly review their workers' compensation programs and make adjustments based on the extensive body of research into effective practices; and

WHEREAS, "one-size fits all" federal oversight and mandates will prevent states from adopting innovations responsive to their changing needs and will have other adverse consequences; and

WHEREAS, the Southern Association of Workers' Compensation Administrators strongly believes that states should continue as the sole regulators of the workers' compensation system;

BE IT NOW RESOLVED, that the Southern Association of Workers' Compensation Administrators, sitting in duly called session, this 24th day of July, 2009, does hereby oppose federal proposals for mandates, oversight, commissions (H.R, 635) and any other actions that compromise the ability of states to continue serving their workers and employers through effective state workers' compensation programs, and

BE IT FURTHER RESOLVED, that the Secretary-Treasurer shall prepare copies of this resolution to be forwarded to the 111th Congress.

William Gary Davis
Secretary – Treasurer
SAWCA

STANDING COMMITTEES
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RESOLUTION OPPOSING THE CREATION OF A FEDERAL COMMISSION TO EXAMINE STATE WORKERS COMPENSATION LAWS
June 1, 2009

SUMMARY

On January 22, 2009, U. S. Congressman Joseph Baca (D-California) introduced HR 635, which would authorize the establishment of a National Commission on State Workers Compensation Laws. The proposal would give the commission the responsibility of examining state laws to determine if they provide an adequate, prompt, and equitable system of compensation and medical care for injury or death arising out of and in the course of employment. A similar commission was authorized with members appointed by President Nixon in 1971. The commission made broad recommendations in 1972 that included higher disability benefits, compulsory coverage, and unlimited medical care and rehabilitation benefits. However, the Commission avoided critical areas on which there was no consensus, with significant cost impact, such as compensating permanent partial disability. As a result, states adopting many of these recommendations incorporated significant cost drivers into their systems, without countervailing utilization controls, sowing the seeds for excessive costs and the workers' compensation financial crisis of the late 1980s and early 1990s.

A number of significant workers compensation reforms have been enacted by the states in the 37 years since the 1972 Commission issued its report. State workers compensation programs have greatly improved through the use of managed care processes, treatment guidelines and stronger fraud provisions. The legislation, as drafted, fails to acknowledge these fundamental improvements, and implies that major problems currently exist in many state workers compensation programs.

PROPOSED NCOIL RESOLUTION

SUMMARY

A resolution opposing federal legislative efforts to empower the government to establish a national commission to review and evaluate state workers' compensation laws.

- WHEREAS, the National Conference of Insurance Legislators (NCOIL) supports state workers' compensation laws that provide an injured worker with all reasonable and necessary medical treatment, of the nature and intensity to promote expeditious healing and return to work, and a fair level of income benefits during disability, providing protection against lost wages, while encouraging return to work, all at a cost affordable to employers.

- WHEREAS, NCOIL believes the state-based workers' compensation system has proven over the near-century of its existence to constitute an effective means of protecting injured workers against the costs of industrial injury, and protecting employers against the unlimited and unpredictable costs of

workplace liability. A state-based benefit delivery system reflects the nature and cost of employment in individual states and is an exemplar of the federal system, in which power is dispersed among the states, thereby facilitating timely response and ability to tailor remedies to state-specific conditions.

- WHEREAS, NCOIL opposes the imposition of federal oversight and development of federal mandates on the state workers' compensation system. Federal requirements on the state-based system would create unnecessary imbalances and unintended consequences for a system that has been operating effectively for decades.

- WHEREAS, NCOIL opposes legislation that would unnecessarily increase the federal bureaucracy and create federal regulation in an area where states are currently providing adequate oversight.

- WHEREAS, NCOIL supports a state workers' compensation system, its administration, legal precedents, funding and fiscal accountability, which is intricately linked to each state's economy. The state-based system provides the ability to experiment creatively and borrow from experiences in other states without the burden of a rigid, nationwide, one-size-fits-all federal program that is slow to change and administratively cumbersome.

- WHEREAS, NCOIL supports the rights of states and their respective legislatures and stakeholders to review the performance of state-based workers' compensation systems. It is not the province of Congress to interfere with the state administration of workers' compensation.

THEREFORE BE IT RESOLVED, the National Conference of Insurance Legislators (NCOIL) reiterates its support for the state-based workers' compensation system and opposition to legislation that would lead to broadening the federal role in that system; and

BE IT FURTHER RESOLVED that NCOIL opposes H.R. 635, legislation establishing a National Commission on State Workers' Compensation Laws, because that evaluation is intended to, and will assuredly, lead to recommendations inimical to the independence of the state-based workers' compensation benefit delivery system. These recommendations will seek to impose federal benefit delivery system rules which Congress will be expected to approve – rules that inherently will interfere with state benefit systems, increase system costs nationwide, and frustrate efforts of the states to contain costs.

RESOLUTION OPPOSING THE CREATION OF A FEDERAL COMMISSION TO EXAMINE STATE WORKERS COMPENSATION LAWS

BACKGROUND

On January 22, 2009, U.S. Congressman Joseph Baca (D-California) introduced HR 635, which would authorize the establishment of a National Commission on State Workers Compensation Laws. The proposal would give the commission the responsibility of examining state laws to determine if they provide an adequate, prompt, and equitable system of compensation and medical care for injury or death arising out of and in the course of employment. A similar commission was authorized with members appointed by President Nixon in 1971. The commission made broad recommendations in 1972 that included higher disability benefits, compulsory coverage, and unlimited medical care and rehabilitation benefits. However, the Commission avoided critical areas on which there was no consensus, with significant cost impact, such as compensating permanent partial disability. As a result, states adopting many of these recommendations incorporated significant cost drivers into their systems, without countervailing utilization controls, sowing the seeds for excessive costs and the workers' compensation financial crisis of the late 1980s and early 1990s.

A number of significant workers compensation reforms have been enacted by the states in the 37 years since the 1972 Commission issued its report. State workers compensation programs have greatly improved through the use of managed care processes, treatment guidelines and stronger fraud provisions. The legislation, as drafted, fails to acknowledge these fundamental improvements, and implies that major problems currently exist in many state workers compensation programs.

PROPOSED ALEC RESOLUTION

SUMMARY

A resolution opposing federal legislative efforts to empower the government to establish a national commission to review and evaluate state workers' compensation laws.

WHEREAS, the American Legislative Exchange Council (ALEC) supports state workers' compensation laws that provide an injured worker with all reasonable and necessary medical treatment, of the nature and intensity to promote expeditious healing and return to work, and a fair level of income benefits during disability, providing protection against lost wages, while encouraging return to work, all at a cost affordable to employers.

WHEREAS, ALEC believes the state-based workers' compensation system has proven over the near-century of its existence to constitute an effective means of protecting injured workers against the costs of industrial injury, and protecting employers against the unlimited and unpredictable costs of workplace liability. A state-based benefit delivery system reflects the nature and cost of employment in individual states and is an exemplar of the federal system, in which power is dispersed among the states, thereby facilitating timely response and ability to tailor remedies to state-specific conditions.

WHEREAS, ALEC opposes the imposition of federal oversight and development of federal mandates on the state workers' compensation system. Federal requirements on the state-based system would create unnecessary imbalances and unintended consequences for a system that has been operating effectively for decades.

WHEREAS, ALEC opposes legislation that would unnecessarily increase the federal bureaucracy and create federal regulation in an area where states are currently providing adequate oversight.

WHEREAS, ALEC supports a state workers' compensation system, its administration, legal precedents, funding and fiscal accountability, which is intricately linked to each state's economy. The state-based system

provides the ability to experiment creatively and borrow from experiences in other states without the burden of a rigid, nationwide, one-size-fits-all federal program that is slow to change and administratively cumbersome.

WHEREAS, ALEC supports the rights of states and their respective legislatures and stakeholders to review the performance of state-based workers' compensation systems. It is not the province of Congress to interfere with the state administration of workers' compensation.

THEREFORE BE IT RESOLVED, the American Legislative Exchange Council (ALEC) reiterates its support for the state-based workers' compensation system and opposition to legislation that would lead to broadening the federal role in that system; and

BE IT FURTHER RESOLVED that ALEC opposes H.R. 635, legislation establishing a National Commission on State Workers' Compensation Laws, because that evaluation is intended to, and will assuredly, lead to recommendations inimical to the independence of the state-based workers' compensation benefit delivery system. These recommendations will seek to impose federal benefit delivery system rules which Congress will be expected to approve – rules that inherently will interfere with state benefit systems, increase system costs nationwide, and frustrate efforts of the states to contain costs.