Comments on AB 332

By Wayne Carlson, Executive Director, Public Agency Compensation Trust

Existing law prohibits the administrator of an association from performing any of the duties assigned to the third-party administrator. (NRS 616B.365) **Section 3** of this bill specifies that the administrator of an association is prohibited from directly administering claims. Existing law also prohibits the administrator of the association and the third-party administrator from having a direct or indirect financial interest in each other. (NRS 616B.371) **Section 4** of this bill removes the prohibition on the administrator of the association and the third-party administrator having a financial interest in each other. Regarding **Section 3,** it appears that section 3's prohibition of claims administration by the association administrator may conflict with **Section 4** if the administrator of an association and a third-party claims administrator have common ownership.

Existing law and regulations require self-insured employers, associations of self-insured public or private employers and private carriers to pay an annual assessment which funds the Accounts. (NRS 616B.554, 616B.575, 616B.584; chapter 616B of NAC). **Sections 6, 9 and 12** of this bill remove the authority to adopt regulations which impose such assessments from each board for administration and the Administrator of the Division, and **section 16** of this bill voids the provisions of existing regulations relating to such assessments, thus eliminating the requirement for assessments to be paid for each Account. **Sections 7, 8, 10, 11, 13** and **14** of this bill require an employee to have incurred a subsequent injury and disability on 55 or before September 30, 2025, in order for the compensation or reimbursement provisions to apply, thus prohibiting any claims against the Accounts due to a subsequent injury and disability which is incurred on or after October 1, 2025. AB 332 thus eliminates the subsequent injury fund for new claims after September 30, 2025 for self-insured groups, self-insured employers, and private insurers.

Evaluating the fiscal impact, PACT historically recovered about $186,000 each year from qualified subsequent injury claims which are payable from the subsequent injury account for SIGs to which PACT paid an assessment share of all SIGs which varied widely each year from $83,000 to $942,000 depending upon the share each SIG has of the total subsequent injury claims from all SIGs based upon average claims expenditures. The volatility of the assessments each year can be substantial as the account is zeroed out annually without cumulation of a balance. Eliminating the subsequent injury account shows mixed results due to the volatility depending upon the amount of claims submitted compared to the annual assessment.

Sections 15 and 18 of this bill eliminate the $36,000 maximum amount of pay for employees for purposes of calculating the amount of a premium which is due pursuant to the terms of a policy of industrial insurance. Because this amount has remained unchanged since 1995, inflation has eroded its value. The effect on insurers rates will result in a reduction in the rate applied to an unlimited amount of payroll by classification, although the net premium will remain neutral overall. However, given that uncapped payroll amounts for certain classifications substantially are higher than others, the amount of effective impact on a given classification rate must be calculated by the rate service organization.