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## Illinois comp reform proposal worries employers, insurers

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**Bill Kenealy (mailto:bkenealy@businessinsurance.com)**

Recently adopted amendments to legislation to revamp Illinois' workers compensation standards for causation, what portion insurers must pay and what constitutes a traveling employee are adding to uncertainty about the bill's fate, experts say.

The amendments that were filed June 3 and adopted June 4 revised H.B. 1287, which Democratic Illinois House Speaker Michael Madigan proposed as an alternative to the plan proposed earlier by Republican Gov. Bruce Rauner. Gov. Rauner's plan, which would have required workers to prove a direct link between their job and the injury for which they were seeking compensation, failed to advance in the Democrat-controlled Illinois Legislature. Stephen Schneider, Midwest region vice president at the American Insurance Association in Deerfield, Illinois, criticized getting just 24 hours notice on the amendments leaving "very little opportunity" to review them and having "no opportunity in a regularly structured hearing to comment on the provisions that were added." Some of the amendments are troubling to insurers, said Mr. Schneider, who testified against the bill Tuesday before the Illinois Senate Judiciary Committee, which is considering the House-passed measure. For example, he said an amendment seeking to clarify language on the cause of injuries and establish an employer/insurer contribution scheme to recover payments for certain injuries is vague, particularly those that occur in the first 90 days of employment. "The amendment says that in the first 90 days, if somebody is injured and it's due to repetitive or cumulative trauma, we have to pay the claim, but we are not allowed to factor that into the premium" employers must pay, Mr. Schneider said. "It also has a very awkwardly constructed contribution scheme, which basically says that you need to go and figure out where the worker received the repetitive trauma and recover the money from them. You can only imagine the litigation that would ensue from something like that." Matthew Schiff, Chicago-



AP

Lawmakers listen to Illinois Speaker of the House Michael Madigan, D-Chicago, left, in Springfield, Illinois.

based partner and leader of the labor and employment group at law firm Sugar Felsenthal Grais & Hammer L.L.P., said employers have a difficult time accepting that they have to pay a repetitive trauma comp claim in cases where the bulk of the harm was done prior to an employee joining a company. “What bothers a lot of employers here is causation,” Mr. Schiff said. “In 30-plus states, you have to say the majority of the cause for the injury or condition is due to the work. In Illinois, it can be only 1% or even less.” Another amendment to H.B. 1287 seeks to clarify the definition of a traveling employee. “Illinois is unusual in that it enables traveling employees to file claims here even if they are injured somewhere else,” Mr. Schiff said. “If somebody is traveling for your company, they are a 24-hour risk. If they fall leaving a bar at night, they can still file a claim in Illinois.” Yet Mr. Schiff said predicting how Illinois comp reform legislation will fare is difficult, given the competing political objectives of Messrs. Rauner and Madigan. In addition, even bipartisan comp legislation adopted previously has failed to achieve the desired objective of making workers comp coverage more affordable in Illinois, he said. “Historically, workers comp reform in Illinois has always been done on an agreed-upon bill, and the sense now is that this bill isn't really the product of give and take and compromise,” Mr. Schiff said. “It's probably going to get vetoed and not overridden.”

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