First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REENGROSSED

This Version Includes All Amendments
Adopted in the House of Introduction

LLS NO. 09-1007.01 Bart Miller **SENATE BILL 09-281**

SENATE SPONSORSHIP

Shaffer B., Groff, Hodge, Keller, Morse, Romer, White, Tapia

HOUSE SPONSORSHIP

Weissmann,

Senate Committees	**House Committees**
Appropriations	

A BILL FOR AN ACT

CONCERNING PINNACOL ASSURANCE, AND, IN CONNECTION THEREWITH, CLARIFYING THE OPERATION OF PINNACOL ASSURANCE AS A POLITICAL SUBDIVISION OF THE STATE, REQUIRING PINNACOL ASSURANCE TO PAY A POLICYHOLDER DIVIDEND, AND PUTTING IN PLACE MEASURES FOR THE GENERAL ASSEMBLY TO ASSESS THE OPERATION OF COLORADO LAWS GOVERNING WORKER SAFETY AND INJURY COMPENSATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 13, 2009

SENATE
Amended 2nd Reading
April 9, 2009

Clarifies the operation of Pinnacol Assurance as a political subdivision of the state by amending and repealing certain statutes granting Pinnacol Assurance the authority to engage in activities as if it were a private insurance carrier. Requires Pinnacol Assurance to pay a dividend to small businesses equal to 5% of Pinnacol Assurance's surplus funds no later than September 1, 2009. Requires the state auditor to undertake an annual audit of Pinnacol Assurance and to transmit such audit together with any comments and recommendations to the governor, the general assembly, the executive director of the department of labor and employment, and the commissioner of insurance. Establishes a legislative interim committee to meet during the 2009 interim to study the laws governing worker safety and work-related injury compensation, including the operation of Pinnacol Assurance and to make recommendations on any policy changes with respect to these matters.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Repeal. 8-45-102 (2) and (3), Colorado Revised Statutes, are repealed as follows:

8-45-102. Pinnacol Assurance fund created - control of fund. (2) ~~The chief executive officer is vested with full power and jurisdiction over the administration of Pinnacol Assurance and may appoint such subordinate officers as may be necessary for the efficient operation of Pinnacol Assurance and may do and perform all things, whether specifically designated in this article or in addition thereto, that are necessary or convenient in the exercise of any power or jurisdiction over Pinnacol Assurance in the administration thereof under the provisions of this article as fully and completely as the head of a private insurance company might or could do, subject, however, to all the provisions of this article and other applicable law.~~

(3) ~~Control of all moneys in the Pinnacol Assurance fund shall be transferred to the board, which shall administer the fund and use such moneys for the purposes of this article.~~

SECTION 2. Repeal. 8-45-112, Colorado Revised Statutes, is repealed as follows:

8-45-112. Amendment of rates - distribution to policyholders. ~~The board may amend at any time the rates for any class. No contract of insurance between Pinnacol Assurance and any employer shall be in effect until a policy or binder has been actually issued by the board and the premium therefor paid as and when required by this article. Not less often than once a year the chief executive officer shall tabulate the earned premiums paid by policyholders of Pinnacol Assurance. Should the experience of the Pinnacol Assurance fund show a credit balance and after payment of all amounts that have fallen due because of operating expenses, injury, or death, and after setting aside proper reserves, the board shall distribute such credit balance to the policyholders who have a balance to their credit in proportion to the premium paid and losses incurred by each such policyholder during the preceding insurance period. In the event any such policyholder fails to renew a policy with Pinnacol Assurance for the period following the period in which said dividends were earned, said policyholder shall be entitled to said credit dividend if such policy is terminated in good standing. In the event an employer actually discontinues business, said employer's policy shall be cancelled, and the dividend, if any, when ascertained, shall be returned to the employer.~~

SECTION 3. Repeal. 8-45-117 (5) and (9), Colorado Revised Statutes, are repealed as follows:

8-45-117. Regulation by commissioner of insurance. (5) ~~At such time as a reasonable surplus of the Pinnacol Assurance fund is reached pursuant to section 8-45-111 or when Pinnacol Assurance fails~~

~~to comply with the plan to attain a reasonable surplus as set forth in section 8-45-111, Pinnacol Assurance shall be subject to regulation by the commissioner of insurance as provided in section 10-1-205 (7) and part 4 of article 3 of title 10, C.R.S., to the extent consistent with the provisions of this article.~~

(9) ~~After the transfer of the moneys in the Pinnacol Assurance fund in accordance with subsection (6) of this section, if the commissioner of insurance places Pinnacol Assurance under direct supervision pursuant to the provisions of section 10-3-405, C.R.S., the moneys in the Pinnacol Assurance fund may be transferred back to the custody of the state treasury pursuant to sections 8-45-102 (1), 8-45-118, and 8-45-119, and the state treasurer shall control the investment of the fund pursuant to section 8-45-120. The transfer of funds shall be under such conditions and within such time period as the state treasurer and the commissioner of insurance deem appropriate.~~

SECTION 4. Article 45 of title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

8-45-118.6. Required policyholder dividend - repeal. (1) NO LATER THAN SEPTEMBER 1, 2009, THE BOARD OF PINNACOL ASSURANCE SHALL DECLARE A POLICYHOLDER DIVIDEND IN AN AMOUNT EQUAL TO FIVE PERCENT OF PINNACOL ASSURANCE'S SURPLUS FUNDS, WHICH SHALL BE THE AMOUNT OF ITS ASSETS MINUS OPERATING AND KNOWN LOSS RESERVE LIABILITIES, AND CAUSE SUCH DIVIDEND TO BE MADE EQUITABLY TO ALL POLICYHOLDERS, WITH SUCH DIVIDEND LIMITED TO EMPLOYERS WITH FEWER THAN FIFTY EMPLOYEES.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2014.

8-45-125. Worker safety and injury compensation study group - creation - members - study - report - repeal. (1) THERE IS HEREBY CREATED AN INTERIM COMMITTEE TO STUDY WORKER SAFETY AND THE SYSTEM OF COMPENSATION FOR WORK-RELATED INJURIES, WHICH SHALL BE KNOWN AS THE "WORKER SAFETY AND INJURY COMPENSATION STUDY GROUP", AND WHICH SHALL STUDY AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY ON CHANGES TO LAWS GOVERNING WORKER SAFETY AND WORK-RELATED INJURY COMPENSATION. THE INTERIM COMMITTEE SHALL MEET DURING THE 2009 INTERIM AS AUTHORIZED UNDER RULE 24A OF THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.

(2) (a) THE MEMBERS OF THE INTERIM COMMITTEE SHALL CONSIST OF THE FOLLOWING TEN MEMBERS OF THE GENERAL ASSEMBLY:

(I) FIVE MEMBERS OF THE SENATE, THREE APPOINTED BY THE PRESIDENT OF THE SENATE AND TWO APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND

(II) FIVE MEMBERS OF THE HOUSE OF REPRESENTATIVES, THREE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TWO APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

(b) THE CHAIR OF THE INTERIM COMMITTEE SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE FROM AMONG THE MEMBERS APPOINTED UNDER SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (2). THE VICE-CHAIR OF THE INTERIM COMMITTEE SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES FROM AMONG THE MEMBERS APPOINTED UNDER SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2).

(3) THE INTERIM COMMITTEE SHALL STUDY, MAKE

RECOMMENDATIONS, AND REPORT FINDINGS ON ALL MATTERS RELATING TO THE OPERATION OF PINNACOL ASSURANCE, EMPLOYER INSURANCE PREMIUMS FOR WORKERS' COMPENSATION, AND WORKER SAFETY AND COMPENSATION OF INJURED WORKERS, INCLUDING, BUT NOT LIMITED TO, BOTH THE FEASIBILITY OF THE CONTINUED OPERATION AND THE PUBLIC POLICY IMPLICATIONS OF PINNACOL ASSURANCE AS A DIVISION OF STATE GOVERNMENT OR THE FEASIBILITY AND PUBLIC POLICY IMPLICATIONS OF SELLING PINNACOL ASSURANCE TO A WILLING THIRD-PARTY BUYER.

(4) IN CONDUCTING ITS STUDY, THE INTERIM COMMITTEE IS AUTHORIZED TO UTILIZE THE PROVISIONS OF SECTIONS 2-2-313 TO 2-2-315, C.R.S., AND RULE 33 OF THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.

(5) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL ASSIST THE INTERIM COMMITTEE IN ITS ACTIVITIES.

(6) THE INTERIM COMMITTEE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE LEGISLATIVE COUNCIL DURING THE 2009 INTERIM BY THE DATE SPECIFIED IN THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 5. 8-45-121 (2), Colorado Revised Statutes, is amended to read:

8-45-121. Visitation of fund by commissioner of insurance - annual audit - examination. (2) An annual FINANCIAL audit AND, IN 2009, A PERFORMANCE AUDIT of ~~said fund~~ PINNACOL ASSURANCE shall be made AS SOON AS PRACTICABLE by ~~an~~ THE STATE auditor, ~~or~~ SUCH AUDITS TO INCLUDE, BUT NOT BE LIMITED TO, EXECUTIVE COMPENSATION,

PREMIUM RATE STRUCTURE, KNOWN LOSS RESERVES, INCURRED BUT NOT REPORTED LOSSES, AND INJURED WORKERS' CLAIMS EXPERIENCE. IN CONDUCTING SUCH AUDITS, THE STATE AUDITOR MAY EMPLOY A firm of auditors ~~having~~ AND ACTUARIES, OR BOTH, WITH the necessary specialized knowledge and experience. ~~retained by the state auditor with the consultation and advice of the chief executive officer and the commissioner of insurance.~~ The cost of such ANNUAL audit ~~and examination~~ shall be ~~borne by the fund~~ PAID FROM THE OPERATING FUNDS OF PINNACOL ASSURANCE. THE STATE AUDITOR SHALL REPORT HIS OR HER FINDINGS FROM SUCH AUDITS, ALONG WITH ANY COMMENTS AND RECOMMENDATIONS TO THE GOVERNOR, THE GENERAL ASSEMBLY, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, AND THE COMMISSIONER OF INSURANCE. THE STATE AUDITOR SHALL HAVE CONTINUING AUTHORITY TO CONDUCT PERFORMANCE AUDITS OF PINNACOL ASSURANCE AS THE STATE AUDITOR DEEMS APPROPRIATE. THE COST OF PERFORMANCE AUDITS SHALL BE PAID FROM THE OPERATING FUNDS OF PINNACOL ASSURANCE.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.