

## Talking Points – “Return to Special Fund” Bill

### Restoring Fiscal Authority to the MS Workers’ Compensation Commission

#### **1. SB2362, Passed in 2016, Removed Fiscal Authority from the MWCC**

The Budget Transparency and Simplification Act, SB2362, which passed into law in 2016, had good intentions of bringing fiscal responsibility for state tax dollars under the auspices of one fund – the State General Fund. In doing this, funds of most state agencies were removed from the control of those agencies and centralized in the State General Fund. In doing this, funds belonging to the MS Workers’ Compensation Commission were swept into the State General Fund, in spite of protests from the MWCC citing state law and precedent.

#### **2. MWCC Funds Should Have Been Exempted from SB2362**

Unlike other state agencies, the MWCC is not funded by tax revenue. Ever since its inception in 1948, the agency has been funded by assessments imposed by the MWCC on companies and self-insurance groups providing workers’ compensation insurance. This process was established by the state statute which organized the MWCC and its funding mechanism (Section 71-3-99). The act calls this fund the “Administrative Expense Fund”, and for many years it has operated as a trust account for the privately-funded operations of the MWCC. As a result, the sweeping of this trust account was found to be an illegal and improper act.

#### **3. AG Opinion, February 17, 2017 States the Obvious**

An Attorney General Opinion dated February 17, 2017, points out that Section 3 of SB2362 “specifically exempts ‘any trust fund account that is maintained by one of the 16 agencies.’” The opinion goes on to say: “The Administrative Expense Fund appears to be a trust fund as described in Section 71-3-97. Although these fees are charged for the support of the agency, the funds are exempt from transfer to the General Fund.”

#### **4. Sweeping Funds from the MWCC Has Caused Assessments to Go Up**

Since the passage of SB2362 and the sweeping of the MWCC’s Administrative Expense Fund into the State General Fund, the MWCC has become subject to overall state budget cuts. In order to make up for this unforeseen shortfall, the MWCC has been forced to increase its assessments on companies and self-insurance groups providing workers’ compensation insurance. Because it no longer has control over its funds, this trend is likely to continue.

#### **5. The “Return to Special Fund Bill” Corrects These Problems**

The “Return to Special Fund Bill” corrects these problems by restoring control of MWCC funds to the control of the agency and its Administrative Expense Fund. This is very similar to something done last year to restore another trust fund, the Second Injury Fund, to MWCC control (SB2625 and HB887, passed in 2017). This bill makes it possible for the original statute to work as intended, allowing the MWCC to operate on non-tax revenue, paid through private assessments instead of tax dollars.