

*Colorado Legislative Council Staff Fiscal Note*  
**STATUTORY PUBLIC ENTITY**  
**FISCAL IMPACT**

**Drafting Number:** LLS 10-0211  
**Prime Sponsor(s):** Rep. Ryden  
 Sen. Tochtrop

**Date:** March 5, 2010  
**Bill Status:** House Business Affairs and Labor  
**Fiscal Analyst:** Clare Pramuk (303-866-2677)

**TITLE:** CONCERNING ENACTMENT OF THE "WORKERS' COMPENSATION POLICYHOLDER PROTECTION ACT OF 2010", AND, IN CONNECTION THEREWITH, REQUIRING THE DISTRIBUTION OF EXCESS SURPLUS FUNDS HELD BY PINNACOL ASSURANCE TO PINNACOL ASSURANCE POLICYHOLDERS AND LIMITING THE INSURANCE COMMISSIONER'S DISCRETION WITH RESPECT TO THE PRIOR APPROVAL OF WORKERS' COMPENSATION PURE PREMIUM RATES FILED BY A RATING ORGANIZATION.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
<b>State Revenue</b>		
<b>State Expenditures</b>		
<b>FTE Position Change</b>		
<b>Effective Date:</b> August 11, 2010, assuming the General Assembly adjourns May 12, 2010, as scheduled and no referendum petition is filed.		
<b>Appropriation Summary for FY 2010-2011:</b> None required.		
<b>Local Government Impact:</b> None.		

**Summary of Legislation**

Recommended by the Interim Committee to Study Issues Related to Pinnacol Assurance, HB10-1356 requires Pinnacol Assurance to distribute surplus holdings in excess of 800 percent of risk based capital (RBC) to policyholders. RBC is the amount of required capital that an insurance company must maintain based on the inherent risks in the insurer's operations and is how the Commissioner of Insurance measures solvency.

The bill also directs the commissioner to choose the lowest workers' compensation pure premium rate recommended either by a rating organization or by the independent actuary employed by the commissioner. The commissioner may choose a different rate, but must justify the decision in the final agency order. Prior to a public hearing on rates, the commissioner will post the recommendations and supporting materials on the Division of Insurance website.

## **Background**

Pinnacol Assurance is a political subdivision of the state that operates as a domestic mutual insurance company and provides workers' compensation insurance to over half of Colorado employers. As the insurer-of-last-resort, Pinnacol Assurance is prohibited by law in most cases from refusing to insure any Colorado employer. The State of Colorado self-insures for workers' compensation insurance and uses Pinnacol Assurance to administer its program. The members of the Pinnacol Assurance board of directors are appointed by the Governor and the board appoints the chief executive officer. Pinnacol Assurance is funded by policyholder premiums and investment income and receives no state funding.

## **Statutory Public Entity Impact**

Although no state fiscal impact is anticipated, HB10-1356 may increase dividends distributed by Pinnacol Assurance to its policyholders. The board of Pinnacol Assurance has directed that \$347 million in dividends be distributed to policyholders over the past 5 years. The amount distributed under this bill will depend on the company's RBC calculation which is based on a number of factors including investments, loss reserves, and premiums. Because the RBC cannot be determined in advance, neither can the amount in excess of 800 percent. The fiscal note assumes the amount above 800 percent that would automatically be distributed, is more than the board would authorize under current law.

## **Departments Contacted**

Regulatory Agencies

Pinnacol Assurance