

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2457

BY: COTNER

AS INTRODUCED

AN ACT RELATING TO WORKERS' COMPENSATION; AMENDING 85 O.S. 1991, SECTION 66.2, WHICH RELATES TO THE GROUP SELF-INSURANCE ASSOCIATION GUARANTY FUND; CHANGING THE NAME OF THE GROUP SELF-INSURANCE ASSOCIATION GUARANTY FUND BOARD TO THE GROUP SELF-INSURERS' GUARANTY FUND BOARD; CHANGING THE NAME OF THE GROUP SELF-INSURANCE ASSOCIATION GUARANTY FUND TO THE GROUP SELF-INSURERS' GUARANTY FUND; MODIFYING COMPOSITION OF AND APPOINTMENT OF MEMBERS TO THE BOARD; PROVIDING FOR TERMS OF BOARD MEMBERS; MODIFYING CONTENTS OF THE FUND; INCREASING DEPOSIT LEVEL OF THE FUND; INCREASING THE TAX RATES APPLICABLE TO THE FUND; PROVIDING AND MODIFYING PROCEDURES RELATING TO THE MANAGEMENT OF THE FUND AND ASSESSMENTS THERETO; PROVIDING POWERS AND DUTIES OF THE BOARD; UPDATING STATUTORY REFERENCE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85 O.S. 1991, Section 66.2, is amended to read as follows:

Section 66.2 A. There is hereby created the "Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund Board". The Board shall have supervision over the administration and operation of the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund.

B. The Board shall consist of not less than three (3) nor more than nine (9) members. Each member shall be an administrator or a member of a Group Self-Insurance Association ~~which has been approved by the Workers' Compensation Court as an own risk carrier or self-insured risk.~~ No more than one person, administrator or member may be appointed from any one group. The Board shall be appointed by the Administrator of the Workers' Compensation Court. The initial members of the Board shall be appointed to terms of office as follows:

1. One member shall be appointed for one (1) year;
2. One member shall be appointed for two (2) years; and
3. One member shall be appointed for three (3) years.

If more than three members are appointed, the fourth member shall be appointed for a term of four (4) years and each of the others appointed shall be for terms of office in the order of their appointment of one, two, three or four years with the ninth member also serving four (4) years; the fifth member shall be appointed for a term of one (1) year; the sixth member shall be appointed for a term of two (2) years; the seventh member shall be appointed for a term of three (3) years; and the eighth and ninth members shall be appointed for a term of four (4) years. Thereafter, each person appointed shall ~~serve~~ be appointed for a term of four (4) years.

C. The State Treasurer shall establish the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund in the State Treasury.

D. The monies paid into the Fund, together with the interest thereon and those sums that may be assessed and paid by members of a group which have been assessed and paid because of the inability of

another member of the group to make such payments or sums recovered by the Board, shall constitute the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund.

E. Until the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund contains ~~One Million Dollars (\$1,000,000.00)~~ Two Million Dollars (\$2,000,000.00), the Oklahoma Tax Commission shall assess and collect from each group self-insurance association ~~carrying their own risk,~~ a tax at the rate of ~~one percent (1%)~~ four percent (4%) of the amount of total compensation paid out for permanent partial disability awards ~~paid out~~ during each quarter of the calendar year by ~~each~~ the group self-insurance association for the preceding quarter. The Oklahoma Tax Commission shall forward to the State Treasurer the proceeds of the tax for deposit in the Fund. When the amount in the Fund ~~falls below Seven Hundred Fifty Thousand Dollars (\$750,000.00),~~ ~~the tax made pursuant to this section shall be assessed until the Fund contains One Million Dollars~~ ~~(\$1,000,000.00)~~ reaches a level of Two Million Dollars (\$2,000,000.00), the Administrator shall actuarially determine a tax rate for the next year which shall maintain said Fund within two percent (2%) of the two-million-dollar level and recommend the same to the Board who shall adopt said rate which then becomes said tax rate to be assessed for the next year and such determination shall be made each year thereafter. The State Treasurer shall place monies in the Fund in interest-bearing accounts which shall accrue to the benefit of the Fund.

F. 1. If a group self-insurance association, that is ~~currently~~ approved by the Administrator of the Workers' Compensation Court as a self-insured ~~or own risk carrier,~~ is unable to make timely payment of an award ~~and judgment is rendered against such group self-insurance association and execution is levied and returned unsatisfied in whole or in part~~ or any employee benefits as required by the Workers' Compensation Act because of a lack of resources,

payments for such liabilities ~~shall~~ may be made from the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund.

~~The Administrator shall proceed to recover such payments from the group self-insurance association, or the group self-insurance association's receiver or trustee in bankruptcy, and may commence an action or proceeding or file a claim therefor.~~

~~The Attorney General shall appear on behalf of the Administrator in any such action or proceeding. All monies recovered in such action shall be paid into the Fund.~~

~~2. Each group self-insurance association approved as a self-insurer or own risk carrier shall pay into the Fund a sum equal to that assessed against such group self-insurance association as provided for in subsection E of this section. When the award becomes final, the sum shall be payable regardless of whether or not the award made to the claimant is paid.~~

~~3. In making and entering awards for compensation for permanent partial disability, the Court shall determine and fix the amounts that shall be paid to the Tax Commission pursuant to the provisions of subsection E of this section. The amount so determined and fixed shall have the same force and effect as an award of the Court for compensation and all provisions relating to the collection of awards of the Court shall apply to such judgments.~~

~~4. A group self-insurance association's delinquency in payments as provided in this section shall be sufficient grounds for the Board to seize the group and become its administrator. The Board shall have the power and authority to hold hearings to determine the condition of the group and determine whether or not to replace the administrator, to continue the service company and such other action as may be appropriate. The Board may order payment from the Fund for the payment of such benefits as have become due or awarded in the following order according to the sufficiency of the Fund:~~

- a. Weekly benefits due or awarded and unpaid for temporary total disability;
- b. Weekly benefits due or awarded and unpaid for permanent total disability;
- c. Weekly benefits due or awarded and unpaid to persons entitled thereto as death benefits;
- d. Weekly benefits due or awarded and unpaid for permanent partial disability.

Attorneys' fees and medical expenses also shall be paid. No attorneys' fees or weekly benefits shall be paid in a lump sum. All reasonable and necessary medical expenses incurred by an employee in an amount not exceeding One Hundred Thousand Dollars (\$100,000.00) shall be paid by the Fund. However, the Fund's liability for any medical expenses exceeding One Hundred Thousand Dollars (\$100,000.00) shall be limited to fifty percent (50%) of such excess amount.

The Board shall assess such sums as may be necessary and possible to replace the benefits paid. In the event a court action is required, the Attorney General shall appear on behalf of the Board in any such proceeding.

2. If the group is rehabilitated by the administration of its affairs by the Board, the Administrator of the Court may reinstate the group if requested by the members of the group.

3. Each group approved as a self-insured shall pay to the Oklahoma Tax Commission for the benefit of the Fund a sum equal to that assessed as provided in subsection E of this section.

4. The Board shall determine and fix the amounts to be paid to the Tax Commission pursuant to subsection E of this section.

5. The Oklahoma Tax Commission, on or before the first day of January of each year, shall determine the amount of money held in the Fund as of December 31 of the preceding year by the State Treasurer for the benefit of the Group Self-Insurers' Guaranty Fund.

Promptly after making the determination, the Oklahoma Tax Commission shall advise the Administrator of the Workers' Compensation Court, in writing, of its findings.

It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for in this section. The Oklahoma Tax Commission is hereby authorized to bring an action for the recovery of any delinquent or unpaid payments required in this section. The Oklahoma Tax Commission may also enforce payments by proceeding in accordance with the provisions of Section 42 of ~~Title 85 of the Oklahoma Statutes~~ this title.

~~The Oklahoma Tax Commission shall on or before the first day of April of each year find and determine the amount of money held as of March 1 of that year by the State Treasurer for the benefit of the Group Self-Insurance Association Guaranty Fund and shall on or before the first day of October of each year find and determine the amount of money held as of September 1 of that year by the State Treasurer for the benefit of the Group Self-Insurance Association Guaranty Fund. Promptly after making each such determination, the Oklahoma Tax Commission shall advise the Administrator in writing of its findings.~~

~~5.~~ 6. Eighty percent (80%) of all sums held by the State Treasurer to the credit of the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund by order of the Administrator of the Workers' Compensation Court, with the approval of the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund Board, may be invested in or loaned on the pledge of any ~~of the~~ securities in which a state bank may invest the moneys deposited therein by the State Treasurer; or may be deposited in state or national banks or trust companies upon insured time deposit bearing interest at a rate no less than currently being paid upon insured savings accounts in said institutions. "Insured" as used in this section shall mean insurance as provided by an agency of the federal government. All

such securities or evidence of indebtedness shall be placed in the hands of the State Treasurer, who shall be the custodian thereof, who shall collect the principal and interest when due, and pay the same into said Fund. The State Treasurer shall pay by vouchers drawn on the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund for the making of such investments, when ordered by the Board and signed by the Administrator ~~and approved by the Group Self-Insurance Association Guaranty Board~~ of the Workers' Compensation Court, upon delivery of such securities or evidence of indebtedness to him. The Administrator, upon approval of the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund Board, may sell any of such securities, the proceeds thereof to be paid over to the State Treasurer for deposit in the Fund.

~~6.~~ 7. The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes shall be applicable to any payment of assessments made to the Fund when the Fund has over ~~One Million Dollars (\$1,000,000.00)~~ Two Million Dollars (\$2,000,000.00) in it. Refunds shall be paid from the Fund.

~~7.~~ 8. The Oklahoma Tax Commission shall pay, monthly, to the State Treasurer to the credit of the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund all moneys collected during the preceding month under the provisions of this section. The State Treasurer shall pay out of the Group ~~Self-Insurance Association~~ Self-Insurers' Guaranty Fund only upon the order and direction of a ~~court of this state acting under the provisions thereof.~~

~~8.~~ Where an award has been made by the Court or a payment in lieu thereof for compensable injury for a permanent partial disability, the employer the Board.

9. Group self-insurance associations shall pay to the Tax Commission such sum ~~as is~~ or sums as may be due of which ninety-eight percent (98%) of said sum or sums shall be paid into the Fund and the remaining two percent (2%) thereof shall be ~~paid to~~

retained by the Oklahoma Tax Commission not later than the fifteenth of the month following the close of the calendar quarter in which the award was made. The distribution of said sum or sums shall be made by the Tax Commission at the time the money is to be paid to the State Treasurer.

G. The Board may retain ~~an insurance carrier or approved service organization to process, investigate and pay valid claims.~~ The charge for such service such expertise as may be necessary to manage the Fund and may make such assessments as are necessary to pay all benefits and administrative expenses that are due or will become due as provided in the Workers' Compensation Act. All such expenditures shall be paid from the Fund.

H. The provisions of this section shall not apply to any ~~group self-insurance association consisting of~~ state entities or ~~of any~~ political subdivisions of the state.

I. No claim or award shall be allowed against said Fund unless such claim or award is made within one (1) year of the time provided in paragraph 1 of subsection F of this section.

SECTION 2. This act shall become effective September 1, 1992.

43-2-7936

PS