

STATE OF OKLAHOMA

2nd Extraordinary Session of the 44th Legislature (1994)

HOUSE BILL NO. 1001

By: Williams

AS INTRODUCED

An Act relating to workers' compensation; providing for the calculation of certain workers' compensation premiums; imposing duties on the State Board for Property and Casualty Rates; requiring certain employers to establish a safety program and stating the requisites thereof; providing penalties; requiring certain rules; providing for a sales tax refund and eligibility therefor; providing for a Safety Enhancement Fund; amending 85 O.S. 1991, Sections 3, as last amended by Section 33, Chapter 2, O.S.L. 1994, 13 and 14, as last amended by Section 7, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1994, Sections 3 and 14), which relate to the Workers' Compensation Act; defining terms; modifying time when compensation commences; modifying the authority of an employee to select a physician; providing for certified workers' compensation employee choice health care incentive plans; stating duties of the Insurance Commissioner of the State of Oklahoma; providing procedures relating to certification and supervision of workers' compensation employee choice health care incentive plans; requiring certain rules; amending 85 O.S. 1991, Section 177, as last amended by

Section 3, Chapter 22, O.S.L. 1994 (85 O.S. Supp. 1994, Section 177), which relates to the Workers' Compensation Administration Fund; modifying allocation of collections; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 902.3 of Title 36, unless there is created a duplication in numbering, reads as follows:

Workers' compensation premiums shall be calculated on a basis that, as nearly as is practicable, after the effects of experience rating and other applicable rating plans have been considered, the sum of expected losses and expected expenses as a percentage of premium shall be the same for high and low wage-paying employers in the same job classification. The State Board for Property and Casualty Rates shall:

1. Determine the extent to which high wage-paying employers are paying premiums higher than those which would produce the same ratio of expected losses and expenses to premiums as for employers paying lower wages;
2. Determine whether this effect is primarily seen in certain types of job classifications;
3. Investigate alternatives and modifications to the current method of computing workers' compensation premiums, including wage rate recognition plans used in other states, split classifications, wage rate caps, and hours worked;
4. Conduct a hearing or hearings on this matter, including consideration of other alternatives; and

5. Unless rate filings consistent with the findings of the hearing or hearings are made to be effective within a reasonable time after the conclusion of the hearing or hearings, the State Board for Property and Casualty Rates shall promulgate rules to become effective no later than January 1, 1996, to equalize, as nearly as is practicable, expected losses and expenses as a percentage of workers' compensation premiums for high and low wage-paying employers in the same job classification. If the effect is found to be primarily seen in certain types of job classifications, the rules shall be promulgated to apply only to such types of job classifications.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 403.1 of Title 40, unless there is created a duplication in numbering, reads as follows:

A. Not later than January 1, 1996, every public and private employer that employs more than twenty-five employees for twenty or more calendar weeks in the current or preceding calendar year and which is subject to the Workers' Compensation Act shall establish a safety program in accordance with rules promulgated by the Commissioner of Labor in consultation with the Worker Safety Policy Council created in Section 418.2 of Title 40 of the Oklahoma Statutes. Such employers shall adopt and maintain an effective written injury prevention program. Public and private employers that employ twenty-five or fewer employees are encouraged to develop a safety program consistent with the provisions of this section.

B. Each program shall establish a safety committee composed of members representing employees and members representing the employer, selected pursuant to procedures prescribed in rules promulgated by the Commissioner of Labor in consultation with the Worker Safety Policy Council.

C. An employer shall compensate employee members of the safety committee at their regular hourly wage plus their regular benefits

while the employees are attending committee meetings or otherwise engaged in committee duties.

D. An employee shall not be discharged or discriminated against by his or her employer because he or she makes any oral or written complaint to the safety committee or any governmental agency having regulatory responsibility for occupational safety and health, and any employee so discharged or discriminated against shall be reinstated and shall receive reimbursement for lost wages and work benefits caused by the employer's action.

E. If the Commissioner of Labor finds, after notice and hearing, that an employer has failed to establish a safety program pursuant to this section within fifteen business days after written notification has been received from the Commissioner of Labor of the obligation to do so, the Commissioner of Labor may order payment of a civil penalty of not more than One Thousand Dollars (\$1,000.00) for each violation. Each day of continued violation shall constitute a separate violation.

F. The Commissioner of Labor shall promulgate rules in consultation with the Worker Safety Policy Council to implement the provisions of this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1357.8 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There shall be a refund of four and one-half percent (4.5%) of all purchases of qualified safety equipment limited to one percent (1%) of annual gross payroll. Said refunds shall be paid from the Safety Enhancement Fund. Total payments from the Safety Enhancement Fund shall be limited to Five Million Dollars (\$5,000,000.00) in any fiscal year.

B. All claims for payment from the Safety Enhancement Fund shall be submitted to the Oklahoma Department of Labor for payment

with such supporting documentation as required by the Oklahoma Department of Labor.

C. Qualified safety equipment shall mean safety equipment above and beyond that equipment required by the Occupational Safety Health Administration and verified by the Oklahoma Department of Labor.

D. Only companies with two hundred or less employees shall be eligible for refunds pursuant to this section.

E. In order to administer the refunds, the Oklahoma Department of Labor shall establish a Safety Enhancement Fund. The Oklahoma Tax Commission shall transfer to the Safety Enhancement Fund each month from sales tax collected, the amount which the Department of Labor estimates to be necessary to make refunds provided by this section.

SECTION 4. AMENDATORY 85 O.S. 1991, Section 3, as last amended by Section 33, Chapter 2, O.S.L. 1994 (85 O.S. Supp. 1994, Section 3), is amended to read as follows:

Section 3. As used in the Workers' Compensation Act:

1. "Administrator" means the Administrator of workers' compensation as provided for in the Workers' Compensation Act~~;~~;

2. "Court" means the Workers' Compensation Court~~;~~;

3. "Employer", except when otherwise expressly stated, means a person, partnership, association, limited liability company, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association, corporation, or limited liability company, departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof, employing a person included within the term "employee" as herein defined~~;~~;

4. "Employee" means any person engaged in the employment of any person, firm, limited liability company or corporation covered by

the terms of the Workers' Compensation Act, and shall include workers associating themselves together under an agreement for the performance of a particular piece of work, in which event such persons so associating themselves together shall be deemed employees of the person having the work executed; provided, that if such associated workers shall employ a worker in the execution of such contract, then as to such employed worker, both the associated employees and the principal employer shall at once become subject to the provisions of the Workers' Compensation Act relating to independent contractors. Sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or any stockholder-employees of a corporation who own ten percent (10%) or more stock in the corporation are specifically excluded from the foregoing definition of "employee", and shall not be deemed to be employees as respects the benefits of the Workers' Compensation Act. Provided, a sole proprietor, member of a partnership, member of a limited liability company who owns at least ten percent (10%) of the capital of the limited liability company or any stockholder-employee of a corporation who owns ten percent (10%) or more stock in the corporation who does not so elect to be covered by a policy of insurance covering benefits under the Workers' Compensation Act, when acting as a subcontractor, shall not be eligible to be covered under the prime contractor's policy of workers' compensation insurance; however, nothing herein shall relieve the entities enumerated from providing workers' compensation insurance coverage for their employees. Sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or any stockholder-employees of a corporation who own ten percent (10%) or more stock in the corporation may elect to include the sole proprietors, any or all of the partnership members, any or all of

the limited liability company members or any or all stockholder-employees as employees, if otherwise qualified, by endorsement to the policy specifically including them under any policy of insurance covering benefits under the Workers' Compensation Act. When so included the sole proprietors, members of a partnership, members of a limited liability company or any or all stockholder-employees shall be deemed to be employees as respects the benefits of the Workers' Compensation Act. "Employee" shall also include any person who is employed by the departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof. "Employee" shall also include a member of the Oklahoma National Guard while in the performance of duties only while in response to state orders and any authorized voluntary or uncompensated worker, rendering services as a fire fighter, peace officer or civil defense worker. "Employee" shall also include a participant in a sheltered workshop program which is certified by the United States Department of Labor. "Employee" shall not include a person, commonly referred to as an owner-operator, who owns or leases a truck-tractor or truck for hire, if the owner-operator actually operates the truck-tractor or truck and if the person contracting with the owner-operator is not the lessor of the truck-tractor or truck. Provided however, an owner-operator shall not be precluded from workers' compensation coverage under the Workers' Compensation Act if the owner-operator elects to participate as a sole proprietor-;

5. "Employment" includes work or labor in a trade, business, occupation or activity carried on by an employer for pecuniary gain or any authorized voluntary or uncompensated worker rendering services as a fire fighter, peace officer or civil defense worker-;

6. "Compensation" means the money allowance payable to an employee as provided for in the Workers' Compensation Act-;

7. a. "Injury" or "personal injury" means only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally result therefrom and occupational disease arising out of and in the course of employment as herein defined. Provided, only injuries having as their source a risk not purely personal but one that is reasonably connected with the conditions of employment shall be deemed to arise out of the employment.
- b. "Injury" or "personal injury" includes heart-related or perivascular injury, illness or death if resultant from stress in excess of that experienced by a person in the conduct of everyday living. Such stress must arise out of and in the course of a claimant's employment.
- c. "Injury" or "personal injury" shall not include mental injury that is unaccompanied by physical injury-; i

8. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer-; i

9. "Insurance carrier" shall include stock corporations, reciprocal or interinsurance associations, or mutual associations with which employers have insured, and employers permitted to pay compensation, directly under the provisions of paragraph 4 of subsection A of Section 61 of this title-; i

10. "Occupational disease" means only that disease or illness which is due to causes and conditions characteristic of or peculiar to the particular trade, occupation, process or employment in which the employee is exposed to such disease-; i

11. "Permanent impairment" means any anatomical or functional abnormality or loss after reasonable medical treatment has been achieved, which abnormality or loss the physician considers to be capable of being evaluated at the time the rating is made. Except as otherwise provided herein, any examining physician shall only evaluate impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. All evaluations shall include an apportionment of injury causation. However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, shall be operative one hundred twenty (120) days after the last day of the month of publication. The examining physician shall not follow the guides based on race or ethnic origin. The examining physician shall not deviate from said guides except as may be specifically provided for in the guides or modifications to the guides adopted by the Administrator of the Workers' Compensation Court as provided for in Section 201.1 of this title. These officially adopted guides or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to permanent impairment with the exception of paragraph 3 of Section 22 of this title, relating to scheduled member injury or loss; and impairment, including pain or loss of strength, may be awarded with respect to those injuries or areas of the body not specifically covered by said guides-;

12. "Permanent total disability" means incapacity because of accidental injury or occupational disease to earn any wages in any employment for which the employee may become physically suited and reasonably fitted by education, training or experience, including vocational rehabilitation; loss of both hands, or both feet, or both legs, or both eyes, or any two thereof, shall constitute permanent total disability-;

13. "Permanent partial disability" means permanent disability which is less than total and shall be equal to or the same as permanent impairment;

14. "Certified Workers' Compensation Employee Choice Health Care Incentive Plan" means an organization of health care providers, certified by the Insurance Commissioner, that has entered into a contractual agreement with an insurance carrier or self-insured employer to provide medical care under the Workers' Compensation Act. Certified plans shall only include such plans which provide medical services and payment for services on a fee-for-service basis to medical providers and shall not include other plans who contract in some other manner, such as capitalized or pre-paid plans; and

15. "Treating physician" or "primary care physician" means the licensed physician, or specialist referred by the primary care physician, who has provided or is providing medical care to the injured employee. Health care providers who have been retained by any party in that employee's claim for benefits under the Workers' Compensation Act are excluded.

SECTION 5. AMENDATORY 85 O.S. 1991, Section 13, is amended to read as follows:

Section 13. No compensation shall be allowed for the first ~~seven (7)~~ three (3) calendar days of disability except the benefits as provided for in Section 14 of this title; ~~provided that if disability continues beyond the twenty-first calendar day, compensation shall be computed from the inception date of such disability.~~

SECTION 6. AMENDATORY 85 O.S. 1991, Section 14, as last amended by Section 7, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1994, Section 14), is amended to read as follows:

Section 14. A. The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches, and

apparatus as may be necessary after the injury. The attending physician shall supply the injured employee and the employer with a full examining report of injuries found at the time of examination and proposed treatment, this report to be supplied within seven (7) days after the examination; also, at the conclusion of the treatment the attending physician shall supply a full report of his treatment to the employer of the injured employee.

B. The employer's selected physician shall have the right to examine the injured employee. A report of such examination shall be furnished the injured employee within seven (7) days after such examination.

C. If the employer fails or neglects to provide the same within a reasonable time after knowledge of the injury, the injured employee, during the period of such neglect or failure, may do so at the expense of the employer; provided, however, that the injured employee, or another in his behalf, may obtain emergency treatment at the expense of the employer where such emergency treatment is not provided by the employer. ~~Notwithstanding any other provision of this section~~ Unless the employee has previously enrolled in a Certified Workers' Compensation Employee Choice Health Care Incentive Plan and has previously selected a primary care physician, the employee may select a physician of his choice to render necessary medical treatment, at the expense of the employer. The attending physician so selected by the employee shall notify the employer and/or the insurance carrier within seven (7) days after examination or treatment was first rendered.

D. The term "physician" as used in this section shall mean any person licensed in Oklahoma as a medical doctor, chiropractor, chiropodist, dentist, osteopathic physician or optometrist. The Court may accept testimony from a psychologist if the testimony is made under the direction of a medical doctor. If such injured employee should become deceased, whether or not he has filed a

claim, such fact shall not affect liability for medical attention previously rendered, and any person or persons entitled to such benefits may enforce charges therefor as though such employee had survived.

E. Whoever renders medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches and apparatus, or emergency treatment, may submit such charges and duration of treatment to the Administrator of the Court for review in accordance with the rules of the Administrator. Such charges and duration of treatment shall be limited to the usual, customary and reasonable charges and duration of treatment as prescribed and limited by a schedule of fees and treatment for all medical providers to be adopted, after notice and public hearing, by the Administrator. Said fee and treatment schedule shall be based on the usual, customary and reasonable medical charges of health care providers in the same trade area for comparable treatment of a person with similar injuries and the duration of treatment prevailing in this state for persons with similar injuries. The fee and treatment schedule shall be reviewed biennially by the Administrator and, after such review, and notice and public hearing, the Administrator shall be empowered to amend or alter said fee and treatment schedule to ensure its adequacy; provided, however, the fee and treatment schedule shall not be amended or altered until 1995 except to require the utilization of the latest Current Procedural Terminology (CPT) codes as published by the American Medical Association or to provide for the reduction of charges or duration of treatment. The Administrator's review of medical and treatment charges pursuant to this section shall be conducted pursuant to the fee and treatment schedule in existence at the time the medical care or treatment was provided. The order of the Administrator approving medical and treatment charges pursuant to this section shall be enforceable by the Court in the same manner as

provided in the Workers' Compensation Act for the enforcement of other compensation payments. Any party feeling aggrieved by the order, decision or award of the Administrator shall, within ten (10) days, have the right to request a hearing on such medical and treatment charges by a judge of the Workers' Compensation Court. The judge of the Court may affirm the decision of the Administrator, or reverse or modify said decision only if it is found to be contrary to the fee and treatment schedule existing at the time the said medical care or treatment was provided. The order of the judge shall be subject to the same appellate procedure set forth in Section 3.6 of this title for all other orders of the Court. The right to recover charges for every type of medical care for personal injuries arising out of and in the course of covered employment as herein defined, shall lie solely with the Workers' Compensation Court, and all jurisdiction of the other trial courts of this state over such action is hereby abolished. The foregoing provision, relating to approval and enforcement of such charges and duration of treatment, shall not apply where a written contract exists between the employer or insurance carrier and the person who renders such medical, surgical or other attendance or treatment, nurse and hospital service, or furnishes medicine, crutches or apparatus.

F. The Court or Administrator shall have authority on application of employee or employer or its insurance carrier to order a change of physicians at the expense of the employer when, in its judgment, such change is desirable or necessary; provided, the employer shall not be liable to make any of the payments provided for in this section, in case of contest of liability, where the Court shall decide that the injury does not come within the provisions of the Workers' Compensation Act.

G. If the employee chooses a physician for treatment and subsequently changes physicians without the approval of the Court or Administrator, or without agreement of the parties, the maximum

liability of the employer for the aggregate expenses of all such subsequent physicians shall be Five Hundred Dollars (\$500.00). Provided, the limitations shall not apply to referrals by the treating physician for treatment or diagnostic procedures.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14.2 of Title 85, unless there is created a duplication in numbering, reads as follows:

A. If an individually self-insured employer approved by the Workers' Compensation Court or an employer's workers' compensation insurance carrier has contracted with a certified workers' compensation employee choice health care incentive plan, an employee may select that plan for necessary medical treatment as provided under the Workers' Compensation Act. If an individually self-insured employer approved by the Workers' Compensation Court has in force a collective bargaining agreement with its employees, the certified plan shall be selected with the approval of both the employer and the employees. Notwithstanding any other provision of law, those employees who are subject to such certified plan shall receive medical treatment in the manner prescribed by the plan. When a contract of employment is made, qualified employers shall provide the employee with the opportunity to enroll in the insurer's certified plan. Procedures and forms for enrollment shall be provided by the self-insured employer or insurance carrier. The burden for notification of an employee's enrollment in a certified plan shall be the employer's. After enrollment, an employee shall seek treatment under the certified plan for one calendar year. The employee may opt out of the plan, effective on the first day of the first month after the anniversary date of employment. However, if the date of the injury falls under a period of enrollment in a certified plan, treatment must be rendered under the certified plan treatment contract. The provisions of this section shall not preclude the employee from petitioning the Workers' Compensation

Court or the Administrator of the Workers' Compensation Court for a change of physician or from seeking emergency medical treatment as provided in Section 14 of Title 85 of the Oklahoma Statutes.

B. The Insurance Commissioner of the State of Oklahoma shall certify an entity as a certified plan for purposes of the Workers' Compensation Act and shall promulgate such rules as may be necessary to implement the provisions of subsection A of this section. Such rules shall authorize any person to petition the Insurance Commissioner for decertification of a certified plan from the list of certified plan for material violation of any rules promulgated pursuant to this subsection.

C. The workers' compensation insurance premiums of an employer whose employees enroll in a certified plan shall be reduced by the insurer, at a percentage to be determined by the insurer, for that portion of the employer's payroll which applies to enrolled employees. An insurer may offer employees specified incentives for enrollment in a certified plan organization.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14.3 of Title 85, unless there is created a duplication in numbering, reads as follows:

A. Any person or entity may make written application to the Insurance Commissioner of the State of Oklahoma to have a Workers' Compensation Employee Choice Health Care Incentive Plan that provides management of quality treatment to injured employees for injuries and diseases compensable under the Workers' Compensation Act. Each application for certification shall be accompanied by a fee of One Thousand Five Hundred Dollars (\$1,500.00). A plan may be certified to provide services to a limited geographic area. A certificate is valid for the period the Commissioner prescribes unless revoked or suspended. Application for certification shall be made in the form and manner and shall set forth information regarding the proposed program for providing services as the

Commissioner may prescribe. The information shall include, but not be limited to:

1. A list of the names of all medical providers who will provide services under the plan, together with appropriate evidence of compliance with any licensing or certification requirements for those providers to practice in this state; and

2. A description of the places and manner of providing services under the plan.

B. 1. The Commissioner shall certify a plan if the Commissioner finds that the plan:

- a. proposes to provide quality services for all medical services that may be required by the Workers' Compensation Act in a manner that is timely, effective and convenient for the employee,
- b. is reasonably geographically convenient to employees it services,
- c. provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service,
- d. provides adequate methods of peer review, utilization review and dispute resolution to prevent inappropriate, excessive or medically unnecessary treatment, and excludes participation in the plan by those individuals who violate these treatment standards,
- e. provides aggressive case management for injured employees and a program for early return to work,
- f. provides a timely and accurate method of reporting to the Commissioner necessary information regarding medical service costs and utilization to enable the Commissioner to determine the effectiveness of the plan,

- g. authorizes necessary emergency medical treatment for an injury provided by a medical provider not a part of the plan,
- h. assures reasonable access to medical providers available under the plan and provides the employee with a choice of one primary care physician from a list of at least four primary care physicians affiliated with the certified plan, and
- i. complies with any other requirement the Commissioner determines is necessary to provide quality medical services and health care to injured employees.

2. The Commissioner may accept findings, licenses or certifications of other state agencies as satisfactory evidence of compliance with a particular requirement of this section.

C. The Commissioner shall refuse to certify or shall revoke or suspend the certification for a plan if the Commissioner finds that the program for providing medical or health care services fails to meet the requirements of this section, or service under the plan is not being provided in accordance with the terms of a plan.

D. No person who participates in forming consortiums collectively negotiating fees or otherwise solicits or enters into contracts in a good faith effort to provide medical or health care services according to the provisions of this section shall be examined or subject to administrative or civil liability regarding any such participation except pursuant to the Commissioner's active supervision of such activities and the plan. Before engaging in such activities, the person shall provide notice of intent to the Commissioner in a form prescribed by the Commissioner.

E. The Commissioner shall promulgate such rules as may be necessary to implement the provisions of this section.

SECTION 9. AMENDATORY 85 O.S. 1991, Section 177, as last amended by Section 3, Chapter 22, O.S.L. 1994 (85 O.S. Supp. 1994, Section 177), is amended to read as follows:

Section 177. A. There is hereby established with the State Treasurer a Workers' Compensation Administration Fund to be used for the costs of administering the Workers' Compensation Act and for other purposes pursuant to legislative appropriation.

No money on deposit with the State Treasurer to the credit of the Workers' Compensation Administration Fund shall be expended except pursuant to legislative appropriation.

B. For the purpose of providing funds for the Workers' Compensation Administration Fund, each mutual or interinsurance association, stock company, the State Insurance Fund or other insurance carrier writing workers' compensation insurance in this state or providing a workers' compensation equivalent insurance product as provided in Section ~~4~~ 65 of this ~~act~~ title shall pay to the Oklahoma Tax Commission a tax at a rate of one percent (1%) of all gross direct premiums written during each quarter of the calendar year for workers' compensation insurance on risks located in this state after deducting from such gross direct premiums, return premiums, unabsorbed portions of any deposit premiums, policy dividends, safety refunds, savings and other similar returns paid or credited to policyholders. Such payments to the Tax Commission shall be made not later than the fifteenth day of the month following the close of each quarter of the calendar year in which such gross direct premium is collected or collectible. Contributions made by insurance carriers and the State Insurance Fund, under the provisions of this section, to the Workers' Compensation Administration Fund shall be considered losses for the purpose of computing workers' compensation rates.

C. When an employer is authorized to become a self-insurer, the Administrator as directed by the Court shall so notify the Oklahoma

Tax Commission, giving the effective date of such authorization.

The Oklahoma Tax Commission shall then assess and collect from the employers carrying their own risk a tax at the rate of two percent (2%) of the total compensation for permanent total disability awards, permanent partial disability awards and death benefits paid out during each quarter of the calendar year by the employers. Such tax shall be payable by the employers and collected by the Oklahoma Tax Commission according to the provisions of this section regarding payment and collection of the tax created in subsections B, D, E and F of this section.

D. It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for herein. 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 this title.

E. ~~The~~ Until July 1, 1995, the Oklahoma Tax Commission shall pay monthly to the State Treasurer to the credit of the Workers' Compensation Administration Fund all monies collected under the provisions of this section. Beginning July 1, 1995, the Oklahoma Tax Commission shall pay monthly to the State Treasurer all monies collected under the provisions of this section to be credited as follows: ninety percent (90%) to the Workers' Compensation Administration Fund, five percent (5%) to the Oklahoma Department of Labor for safety consultation and the regulation of the safety of employees through the Oklahoma Occupational Health and Safety Standards Act of 1970, Section 401 et seq. of Title 40 of the Oklahoma Statutes, and five percent (5%) to the State Department of Vocational and Technical Education to supplement other funding to the Department for purposes of implementing the provisions of subsection B of Section 414 of Title 40 of the Oklahoma Statutes.

F. The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes shall be applicable to any payments made to the Workers' Compensation Administration Fund.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2EX-5051 PS