

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1768

By: Pope

AS INTRODUCED

An Act relating to workers' compensation; amending 85 O.S. 1991, Sections 66.1 and 66.2, which relate to self-insured guaranty funds; transferring oversight functions from the Administrator of the Workers' Compensation Court to the Office of the Insurance Commissioner; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 85 O.S. 1991, Section 66.1, is amended to read as follows:

Section 66.1 A. There is hereby created the "Individual Self-Insured Guaranty Fund Board". The Board shall have supervision over the administration and operation of the Individual Self-Insured Guaranty Fund. Effective July 1, 1993, oversight of the activities of the Individual Self-Insured Guaranty Fund Board shall be transferred from the Administrator of the Workers' Compensation Court to the Office of the Insurance Commissioner.

B. The Board shall consist of not less than three (3) nor more than nine (9) members. Each member shall be from an employer who has been approved by the Workers' Compensation Court as an own risk carrier or self-insured risk. The Board shall be appointed by the

Administrator, until July 1, 1993. Persons serving on the Board on June 30, 1993, shall continue serving on the Board for the term for which they were appointed. Effective July 1, 1993, the Board shall be appointed by the Insurance Commissioner.

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 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. Thereafter, each person appointed shall serve for four (4) years.

C. The State Treasurer shall establish the Individual Self-Insured Guaranty Fund in the State Treasury.

D. The monies paid into the Fund, together with the interest thereon, shall constitute the Individual Self-Insured's Guaranty Fund.

E. Until the Individual Self-Insured Guaranty Fund contains One Million Dollars (\$1,000,000.00), the Oklahoma Tax Commission shall assess and collect from the employers carrying their own risk a tax at the rate of one percent (1%) of the total compensation for permanent partial disability awards paid out during each quarter of the calendar year by the employers. 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). The State Treasurer shall place monies in the Fund in interest-bearing accounts.

F. 1. If an employer, who is currently approved by the Workers' Compensation Court as a self-insured or own risk carrier, is unable to make payment of an award and judgment is rendered against such employer and execution is levied and returned unsatisfied in whole or in part, payments for such liabilities shall be made from the Individual Self-Insured Guaranty Fund.

The ~~Administrator~~ Insurance Commissioner shall proceed to recover such payments from the employer, or the employer'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~~ Insurance Commissioner in any such action or proceeding. All monies recovered in such action shall be paid into the Fund.

2. Each employer approved as an individual self-insurer or own risk carrier shall pay into the Fund a sum equal to that assessed against such employer 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. 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.

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 Individual Self-Insured 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 Individual Self-Insured Guaranty Fund. Promptly after making each such determination, the Oklahoma Tax Commission shall advise the ~~Administrator~~ Insurance Commissioner in writing of its findings.

5. Eighty percent (80%) of all sums held by the State Treasurer to the credit of the Individual Self-Insured Guaranty Fund by order of the Administrator, with the approval of the Individual Self-Insured 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 Individual Self-Insured Guaranty Fund for the making of such investments, when signed by the ~~Administrator~~ Insurance Commissioner and approved by the Individual Self-Insured Guaranty Board, upon delivery of such securities or evidence of indebtedness to him. The ~~Administrator~~ Insurance Commissioner, upon approval of the individual Self-Insured Guaranty Board, may sell any of such securities, the proceeds thereof to be paid over to the State Treasurer for deposit in the Fund.

6. 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) in it. Refunds shall be paid from the Fund.

7. The Oklahoma Tax Commission shall pay, monthly, to the State Treasurer to the credit of the Individual Self-Insured Guaranty Fund all moneys collected under the provisions of this section. The State Treasurer shall pay out of the Individual Self-Insured 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 shall pay to the Tax Commission such sum as is due of which ninety-eight percent (98%) of said sum shall be paid into the Fund and the remaining two percent (2%) thereof shall be paid to 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.

G. The Board may retain an insurance carrier or approved service organization to process, investigate and pay valid claims. The charge for such service shall be paid from the Fund.

H. The provisions of this section shall not apply to any state entity or any political subdivision of the state.

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

SECTION 2. 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 Guaranty Fund Board". The Board shall have supervision over the administration and operation of the Group Self-Insurance Association Guaranty Fund. Effective July 1, 1993,

oversight of the activities of the Individual Self-Insured Guaranty Fund Board shall be transferred from the Administrator of the Workers' Compensation Court to the Office of the Insurance Commissioner.

B. The Board shall consist of not less than three (3) nor more than nine (9) members. Each member shall be an administrator of a Group Self-Insurance Association which has been approved by the Workers' Compensation Court as an own risk carrier or self-insured risk. The Board shall be appointed by the Administrator, until July 1, 1993. Persons serving on the Board on June 30, 1993, shall continue serving on the Board for the term for which they were appointed. Effective July 1, 1993, the Board shall be appointed by the Insurance Commissioner. 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 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. Thereafter, each person appointed shall serve for four (4) years.

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

D. The monies paid into the Fund, together with the interest thereon, shall constitute the Group Self-Insurance Association Guaranty Fund.

E. Until the Group Self-Insurance Association Guaranty Fund contains One Million Dollars (\$1,000,000.00), 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%) of the total compensation for permanent partial disability awards paid out during each quarter of the calendar year by each group self-insurance association. 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). The State Treasurer shall place monies in the Fund in interest-bearing accounts.

F. 1. If a group self-insurance association, that is currently approved by the Workers' Compensation Court as a self-insured or own risk carrier, is unable to make 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, payments for such liabilities shall be made from the Group Self-Insurance Association Guaranty Fund.

The ~~Administrator~~ Insurance Commissioner 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~~ Insurance Commissioner 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. 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.

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~~ Insurance Commissioner in writing of its findings.

5. Eighty percent (80%) of all sums held by the State Treasurer to the credit of the Group Self-Insurance Association Guaranty Fund by order of the ~~Administrator~~ Insurance Commissioner, with the approval of the Group Self-Insurance Association 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 Guaranty Fund for the making of such investments, when signed by the ~~Administrator~~ Insurance Commissioner and approved by the Group Self-Insurance Association Guaranty Board, upon delivery or evidence of indebtedness to him. The ~~Administrator~~ Insurance Commissioner, upon approval of the Group Self-Insurance Association Guaranty Board, may sell any of such securities, the proceeds thereof to be paid over to the State Treasurer for deposit in the Fund.

6. 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) in it. Refunds shall be paid from the Fund.

7. The Oklahoma Tax Commission shall pay, monthly, to the State Treasurer to the credit of the Group Self-Insurance Association Guaranty Fund all moneys collected under the provisions of this section. The State Treasurer shall pay out of the Group Self-Insurance Association 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 shall pay to the Tax Commission such sum as is due of which ninety-eight percent (98%) of said sum shall be paid into the Fund and the remaining two percent (2%) thereof shall be paid to 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.

G. The Board may retain an insurance carrier or approved service organization to process, investigate and pay valid claims. The charge for such service 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 3. This act shall become effective July 1, 1993.

SECTION 4. 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.

44-1-5335

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