

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1829

By: Hamilton and Settle of
the House

and

Haney and Hobson of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to workers' compensation; amending 85 O.S. 1991, Section 3.6, as last amended by Section 18, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (10 O.S. Supp. 1996, Section 3.6), which relates to appellate procedures; modifying distribution of fees; amending 85 O.S. 1991, Section 93, as last amended by Section 36, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1996, Section 93), which relates to collection and deposit of certain fees; modifying distribution of fees; amending 85 O.S. 1991, Section 177, as last amended by Section 3, Chapter 22, O.S.L. 1994 (85 O.S. Supp. 1996, Section 177), which relates to the Workers' Compensation Administration Fund; modifying distribution of certain funds; providing for transfer of certain monies from the Workers' Compensation Administration Fund to the General Revenue Fund; amending Sections 133 and 137 of Enrolled Senate Bill No. 160 of the 1st Session of the 46th Oklahoma Legislature, which relate to appropriations; modifying source of certain appropriations; modifying certain appropriation; authorizing the Workers' Compensation Court to acquire a computer system by lease-purchase agreement, subject to certain requirements; providing limitation on term of lease-purchase agreement; and declaring an emergency.

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

SECTION 1. AMENDATORY 85 O.S. 1991, Section 3.6, as last amended by Section 18, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (10 O.S. Supp. 1996, Section 3.6), is amended to read as follows:

Section 3.6 A. All the evidence pertaining to each case, except upon agreed orders, shall, insofar as may be possible, be

heard by the judge initially assigned to the case. Upon the completion of such hearing or hearings, the judge hearing the cause shall make such order, decision or award as is proper, just and equitable in the matter. Either party feeling himself aggrieved by such order, decision or award shall, within ten (10) days, have the right to take an appeal from the order, decision or award of the Judge to the Workers' Compensation Court sitting en banc. Such appeal shall be allowed as a matter of right to either party upon filing with the Administrator a notice of such appeal. Such Court en banc shall consist of three (3) Judges of the Court, none of whom shall have presided over any of the previous hearings on the claim. The Court en banc may reverse or modify the decision only if it determines that such decision was against the clear weight of the evidence or contrary to law. Upon completion of the appeal, the members of the Court sitting en banc shall issue such order, decision or award as is proper, just and equitable. Only those members participating in the hearing on appeal shall participate in the making of the order, decision or award. All orders, decisions or awards shall be approved by a majority of the members of the Court sitting en banc. Provided, there may be more than one Court en banc sitting at the same time for purposes of hearing the appeals provided for herein. Appeals shall be allowed on a question of law or a question of fact, or a mixed question of law and fact, and shall be determined on the record made before the Judge. Provided, when the order of the Judge of the Court making an award to a claimant is appealed by the employer or the insurance carrier, interest shall be allowed on the accrued amounts of the award due from the date the award was filed, if the award is not modified or vacated on appeal.

B. In each case filed in the Court en banc, and at the time of filing same, the appellant shall deposit with the clerk as costs One Hundred Twenty-five Dollars (\$125.00) of which no rebate of any part thereof shall be made. The fee collected under this subsection shall be deposited as follows: One Hundred Dollars (\$100.00) to the credit of the Administrator of Workers' Compensation Administration Revolving Fund created by Section 95

of this title for the costs of administering the Workers' Compensation Act ~~and for other purposes pursuant to legislative appropriation~~; and Twenty-five Dollars (\$25.00) to the credit of the Administrator of Workers' Compensation Administration ~~Administration~~ Revolving Fund for purposes of implementing the provisions of this act, including strengthening and providing additional funding for the Attorney General's Workers' Compensation Fraud Unit, providing counseling services pursuant to the workers' compensation counselor program and safety in the workplace.

C. The order, decision or award of the Court shall be final and conclusive upon all questions within its jurisdiction between the parties, unless, within twenty (20) days after a copy of such order, decision or award has been sent by the Administrator to the parties affected, an action is commenced in the Supreme Court of the state, to review such order, decision or award. Any order, decision or award made by a judge of the Court shall be considered as final under the provisions of this section unless appealed to the Workers' Compensation Court sitting en banc as provided for in subsection A of this section. The order, decision or award of a judge of the Court shall be final and conclusive upon all questions within his jurisdiction between the parties unless appealed directly to the Supreme Court or to the Workers' Compensation Court sitting en banc as hereinbefore provided. Any party litigant desiring to appeal directly from such order, decision or award to the Supreme Court, shall, within twenty (20) days after a copy of the order, decision or award has been sent by the Administrator to the parties affected, commence an action in the Supreme Court of the state to review such order, decision or award. The Supreme Court shall have original jurisdiction of such action, and shall prescribe rules for the commencement and trial of the same. Such action shall be commenced by filing with the Clerk of the Supreme Court a certified copy of the order, decision or award of the Workers' Compensation Court sitting en banc or the judge attached to the petition by the complaint wherein the complainant or petitioner shall make his assignments or specifications as to wherein said order, decision or award is

erroneous or illegal. Provided, however, no proceeding to reverse, vacate or modify any order, decision or award of the Workers' Compensation Court sitting en banc or judge of the Court wherein compensation has been awarded an injured employee shall be entertained by the Supreme Court unless the Administrator shall take a written undertaking to the claimant executed on the part of the respondent or insurance carrier, or both, with one or more sureties to be approved by the Administrator, to the effect that the appellant will pay the amount of the award rendered therein, together with interest thereon from the date of the award by the judge of the Court and all costs of the proceeding, or on the further order of the Workers' Compensation Court sitting en banc or judge of the Court after the appeal has been decided by the Supreme Court, except that municipalities and other political subdivisions of the State of Oklahoma are exempt from making such written undertakings. Before the Clerk of the Supreme Court shall accept the action for filing, a certificate from the Administrator shall be required, showing that this provision has been complied with. Said proceedings shall be heard in a summary manner and shall have precedence over all other civil cases in the Supreme Court, except preferred Corporation Commission appeals. The Supreme Court shall require the appealing party to file within forty-five (45) days from the date of the filing of an appeal or an order appealed from, a transcript of the record of the proceedings before the Workers' Compensation Court, or upon application and for good cause shown, the Supreme Court may extend the time for filing said transcript of the record for a period of time not to exceed ninety (90) days from said date, and such action shall be subject to the law and practice applicable to other civil actions cognizable in said Supreme Court. The Court whose action was appealed shall enter any order directed by the Supreme Court under the final determination.

D. When the only controverted issue in a death claim is the determination of proper beneficiaries entitled to receive death benefits, and the parties-beneficiary appeal the decision of the Court, the employer or insurance carrier may pay the proceeds, as
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they accrue, to the Administrator. The Administrator shall hold the proceeds in trust in an interest-bearing account during the appeal period and shall distribute the proceeds and interest to the proper beneficiaries upon written direction of the Court. The employer or insurance carrier shall not be taxed interest or cost on the order of the death claim if payments have been made to the Administrator as they accrue.

E. An action to reopen any case under the provisions of the Workers' Compensation Act shall be assigned in the same manner as original assignments made hereunder.

F. Benefits for an injury shall be determined by the law in effect at the time of injury; benefits for death shall be determined by the law in effect at the time of death.

G. For purposes of this section, interest shall be computed pursuant to Section 727 of Title 12 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 85 O.S. 1991, Section 93, as last amended by Section 36, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1996, Section 93), is amended to read as follows:

Section 93. A. The following fee shall be collected by the Administrator and taxed as costs to be paid by the party against whom any award becomes final:

A fee of Seventy-five Dollars (\$75.00) per case to be deposited as follows:

1. ~~Twenty-five Dollars (\$25.00) to the credit of the Workers' Compensation Administration Fund created by Section 177 of this title;~~

2. ~~Fifteen Dollars (\$15.00)~~ Forty Dollars (\$40.00) to the credit of the Administrator of ~~the~~ Workers' Compensation Revolving Fund created by Section 95 of this title;

~~3.~~ 2. Ten Dollars (\$10.00) to the credit of the Office of the Attorney General's Workers' Compensation Fraud Unit Revolving Fund created by Section 19.2 of Title 74 of the Oklahoma Statutes; and

~~4.~~ 3. Twenty-five Dollars (\$25.00) to the credit of the Administrator of Workers' Compensation Administration Revolving Fund, created by Section 95 of this title, for purposes of

implementing the provisions of this act, including strengthening and providing additional funding for the Attorney General's Workers' Compensation Fraud Unit, providing counseling services pursuant to the workers' compensation counselor program and safety in the workplace.

B. A fee of Seventy-five Dollars (\$75.00) per action to reopen any case pursuant to Section 28 of this title shall be collected by the Administrator and taxed as costs to be paid by the party that reopens the case. The fee collected pursuant to this subsection shall be deposited to the credit of the Administrator of Workers' Compensation Administration Revolving Fund, created by Section 95 of this title, for purposes of implementing the provisions of this act, including strengthening and providing additional funding for the Attorney General's Workers' Compensation Fraud Unit, providing counseling services pursuant to the workers' compensation counselor program and safety in the workplace.

SECTION 3. AMENDATORY 85 O.S. 1991, Section 177, as last amended by Section 3, Chapter 22, O.S.L. 1994 (85 O.S. Supp. 1996, 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 until July 1, 1997 and for the General Revenue Fund beginning July 1, 1997, 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, 1997, 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, 1997, the Oklahoma Tax Commission shall pay monthly to the State Treasurer to the

credit of the General Revenue Fund all monies collected under the provisions of this section.

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

G. After fiscal year 1997 appropriations have been satisfied, any monies remaining in the Workers' Compensation Administration Fund shall be transferred to the General Revenue Fund.

SECTION 4. AMENDATORY Section 133 of Enrolled Senate Bill No. 160 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 133. There is hereby appropriated to the State Supreme Court from any monies not otherwise appropriated from the ~~Workers' Compensation Administration~~ General Revenue Fund of the State Treasury for the fiscal year ending June 30, 1998, the sum of Three Million One Hundred Eleven Thousand Five Hundred Forty-nine Dollars (\$3,111,549.00) or so much thereof as may be necessary to perform the duties imposed upon the State Supreme Court or Court of Civil Appeals by law.

SECTION 5. AMENDATORY Section 137 of Enrolled Senate Bill No. 160 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 137. There is hereby appropriated to the Workers' Compensation Court from any monies not otherwise appropriated from the ~~Workers' Compensation Administration~~ General Revenue Fund of the State Treasury for the fiscal year ending June 30, 1998, the sum of ~~Four Million Seventy-seven Thousand One Hundred One Dollars (\$4,077,101.00)~~ Three Million Thirty-nine Dollars (\$3,000,039.00) or so much thereof as may be necessary to perform the duties imposed upon the Workers' Compensation Court by law.

SECTION 6. Pursuant to the requirements of paragraphs 4 and 5 of subsection I of Section 85.4 of Title 74 of the Oklahoma Statutes, the Workers' Compensation Court is hereby authorized to acquire a computer system by lease-purchase agreement. Further,

the term of the lease-purchase agreement may be in excess of three (3) years but not to exceed five (5) years.

SECTION 7. 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.

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