

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 680

By: Henry of the Senate

and

Settle of the House

7
8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to workers' compensation; amending 85
12 O.S. 1991, Sections 1.2, as last amended by Section
13 1, Chapter 349, O.S.L. 1993, 2b, as last amended by
14 Section 24, Chapter 3, O.S.L. 1996, 3, as last
15 amended by Section 3, Chapter 361, O.S.L. 1997, 22,
16 as last amended by Section 43 of Enrolled House Bill
17 No. 1845 of the 1st Session of the 47th Oklahoma
18 Legislature, 63.1, as last amended by Section 13,
19 Chapter 361, O.S.L. 1997 and 173, as last amended by
20 Section 16, Chapter 349, O.S.L. 1993 (85 O.S. Supp.
21 1998, Sections 1.2, 2b, 3, 22, 63.1 and 173), which
22 relate to workers' compensation; modifying required
23 content of certain submission; modifying requirement
24 for insurance coverage by governmental entities;
25 requiring compliance with Oklahoma Central Purchasing
26 Act; modifying references; deleting requirement for
27 collection of certain premiums and other duties;
28 deleting definition; modifying eligibility for
29 permanent disability awards; requiring finding by
30 Commissioner of Labor or designee, prescribing
31 penalties for failure to comply with certain
32 requirement; prescribing penalties; modifying
reference to source of certain funds; creating the
Department of Labor Safety Consultation and
Regulation Revolving Fund; specifying purpose of
fund; authorizing use of funds; defining term;
amending 82 O.S. 1991, Section 1501-502, as amended
by Section 219, Chapter 145, O.S.L. 1993, and as
renumbered by Section 359, Chapter 145, O.S.L. 1993
(27A O.S. Supp. 1998, Section 3-3-105), which relates
to conservation districts; requiring coverage for
purposes of workers' compensation; repealing 47 O.S.
1991, Sections 2-201 and 376, which relate to
workers' compensation coverage; providing for
codification; providing an effective date; and
declaring an emergency.

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

1 SECTION 1. AMENDATORY 85 O.S. 1991, Section 1.2, as last
2 amended by Section 1, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1998,
3 Section 1.2), is amended to read as follows:

4 Section 1.2 A. There is hereby created the Workers'
5 Compensation Court which shall consist of ten (10) judges. Each
6 judge of the Court shall be appointed to a designated numbered
7 position on the Court. The positions shall be numbered one through
8 ten. The initial terms of the judges by position number shall
9 expire on the following dates:

10 Position 1 shall expire 7-1-84.

11 Position 2 shall expire 7-1-84.

12 Position 3 shall expire 7-1-84.

13 Position 4 shall expire 7-1-82.

14 Position 5 shall expire 7-1-82.

15 Position 6 shall expire 7-1-80.

16 Position 7 shall expire 7-1-80.

17 Position 8 shall expire 7-1-88.

18 Position 9 shall expire 7-1-88.

19 Position 10 shall expire 7-1-96 after being appointed under the
20 provisions hereinafter set forth effective September 1, 1993.

21 Thereafter, each position shall be filled by a judge appointed
22 to serve a six-year term.

23 Provided the judges serving unexpired terms on the State
24 Industrial Court shall serve on the Workers' Compensation Court
25 until their terms expire only as provided herein. The judges of the
26 State Industrial Court whose terms expire March 14, 1979, shall
27 serve in Positions 6 and 7 until that date, and the judge whose term
28 expires March 14, 1981, shall serve in Position 5 until that date.

29 Upon expiration of these terms, the Governor shall appoint judges to
30 serve the remainder of the initial terms designated in this section.

31 When a vacancy on the Court occurs or is certain to occur or for
32 initial appointments to the Court, the Judicial Nominating

1 Commission shall choose and submit to the Governor and the Chief
2 Justice of the Supreme Court the names of three persons, ~~in addition~~
3 ~~to the name of the incumbent judge, if any,~~ for each appointment,
4 each of whom has previously notified the Commission in writing that
5 he or she will serve as a judge if appointed. The Governor shall
6 appoint one of the nominees to fill the vacancy, but if he or she
7 fails to do so within sixty (60) days, the Chief Justice of the
8 Supreme Court shall appoint one of the nominees, the appointment to
9 be certified to the Secretary of State.

10 B. A judge of the Court shall have been licensed to practice
11 law in this state for a period of not less than five (5) years prior
12 to appointment. Each judge, before entering upon the duties of ~~his~~
13 the office, shall take and subscribe to ~~an~~ the oath of office and
14 file the same with the Secretary of State. Each judge shall
15 continue to serve until ~~his~~ a successor shall have been appointed
16 and qualified. A judge shall be eligible for reappointment,
17 provided that he may be removed for cause by the Court on the
18 Judiciary prior to the expiration of ~~his~~ a term.

19 C. Each judge shall receive a salary equal to that paid to a
20 district judge of this state, and shall devote full time to ~~his~~ the
21 duties of the office and shall not engage in the private practice of
22 law during ~~the~~ a term in office.

23 D. The Governor shall appoint from among the judges of the
24 Workers' Compensation Court a presiding judge of that Court who
25 shall serve for a two-year term commencing with the initial
26 appointment beginning January 1, 1987. Any judge so appointed shall
27 not serve more than two times in succession. The presiding judge
28 shall preside at all hearings held by the Court, preside at ~~such~~
29 meetings of the judges of the Court as may be necessary, and perform
30 ~~such~~ other supervisory duties as the needs of the Court may require.
31 The presiding judge may designate one of the other judges to act as
32 presiding judge ~~in his place~~ whenever necessary during ~~the~~ a period

1 of disqualification, disability, or absence of the presiding judge.
2 During the disqualification, disability, or absence of the presiding
3 judge, the acting presiding judge shall exercise all of the powers
4 of the presiding judge.

5 E. The Court shall have the authority to adopt reasonable rules
6 within its respective areas of responsibility including the rules of
7 procedure for the Court en banc, after notice and public hearing,
8 for effecting the purposes of the Workers' Compensation Act. All of
9 the judges of the Court shall be present at all meetings wherein
10 rules are adopted or amended. All rules, upon adoption, shall be
11 submitted to the Supreme Court, which shall either approve or
12 disapprove them within thirty (30) days. All rules, upon approval
13 by the Supreme Court, shall be published and be made available to
14 the public and, if not inconsistent with the law, shall be binding
15 in the administration of the Workers' Compensation Act.

16 F. The Court is hereby designated and confirmed as a court of
17 record, with respect to any matter within the limits of its
18 jurisdiction, and within such limits the judges thereof shall
19 possess the powers and prerogatives of the judges of the other
20 courts of record of this state.

21 G. The principal office of the Court shall be situated in the
22 City of Oklahoma City in quarters assigned by the Department of
23 Central Services. The Court may hold hearings in any city of this
24 state.

25 H. All county commissioners and presiding district judges of
26 this state shall make quarters available for the conducting of
27 hearings by a judge of the Court upon request by the Court.

28 I. The judges of the Court shall determine the qualifications
29 necessary for the ~~job of Administrator.~~ Said qualifications which
30 shall be submitted to the Chief Justice of the Supreme Court for
31 approval, disapproval, or modification.

32

1 J. Judges of the Workers' Compensation Court may punish for
2 direct contempt pursuant to Sections 565, 565.1, and 566 of Title 21
3 of the Oklahoma Statutes.

4 SECTION 2. AMENDATORY 85 O.S. 1991, Section 2b, as last
5 amended by Section 24, Chapter 3, O.S.L. 1996 (85 O.S. Supp. 1998,
6 Section 2b), is amended to read as follows:

7 Section 2b. A. 1. All public entities of this state, their
8 agencies and instrumentalities, authorities, and public trusts of
9 which they are beneficiaries shall provide workers' compensation to
10 their employees and elected officials engaged in either governmental
11 or proprietary functions in accordance with this section.
12 Compensation or indemnification for compensation shall be paid out
13 of the funds of ~~such~~ the public entities.

14 ~~B. 1.~~ 2. Except as otherwise provided, the state and all its
15 institutions of higher education, departments, instrumentalities,
16 institutions, and public trusts of which it or they are
17 beneficiaries shall insure against liability for workers'
18 compensation ~~with the State Insurance Fund and shall not insure with~~
19 ~~any other insurance carrier unless the State Insurance Fund refuses~~
20 ~~to accept the risk when the application for insurance is made, or~~
21 ~~unless specifically authorized by law.~~ Insurance obtained pursuant
22 to this paragraph shall be obtained from the lowest and best bidder
23 pursuant to the Oklahoma Central Purchasing Act.

24 ~~2.~~ 3. The state ~~and,~~ all ~~its~~ state institutions of higher
25 education except comprehensive universities, and all state
26 departments, instrumentalities, institutions, and public trusts of
27 which the state is a beneficiary, may self-insure under rules
28 promulgated by the State Insurance Fund Risk Management
29 Administrator. ~~Self-insurance administration may only be obtained~~
30 ~~through the State Insurance Fund.~~ The state ~~and,~~ all ~~its~~ state
31 institutions of higher education except comprehensive universities,
32 and all state departments, instrumentalities, institutions, and

1 public trusts so electing to self-insure shall pay premiums set by
2 the State Insurance Fund. ~~The State Insurance Fund shall collect~~
3 ~~premiums, pay claims and provide for excess insurance.~~ All
4 dividends or profits accumulating from a self-insurance program
5 shall be refunded to the participants on a formula devised by the
6 ~~State Insurance Fund~~ Risk Management Administrator.

7 ~~3.~~ B. All counties, cities and towns, their instrumentalities
8 and public trusts of which they are beneficiaries shall insure
9 against their liability for workers' compensation with the State
10 Insurance Fund ~~or~~ or through any combination of the following ~~or~~ or may:

11 a. ~~self-insure~~ 1. Self-insure and make any appropriation of
12 funds to cover their risk~~;~~ ;

13 b. ~~secure~~ 2. Secure reinsurance or excess insurance over and
14 above a self-insurance retention in any manner authorized by
15 subsections B and C of Section 167 of Title 51 of the Oklahoma
16 Statutes~~;~~ ;

17 c. ~~secure~~ 3. Secure compensation for their employees in the
18 manner provided in the Political Subdivision Tort Claims Act~~;~~ ;
19 subsection C of Section 167 of the Oklahoma Statutes, or

20 d. ~~insure~~ 4. Insure with other insurance carriers licensed
21 in the State of Oklahoma.

22 ~~As used in this section, "city" or "town" includes any public trust~~
23 ~~or authority of which the city or town is beneficiary.~~

24 ~~4.~~ C. Boards of education, their instrumentalities and public
25 trusts of which they are beneficiaries shall insure against their
26 liability for workers' compensation with the State Insurance Fund ~~or~~ or
27 ~~or~~ or through any combination of the following ~~or~~ or may:

28 a. ~~self-insure~~ 1. Self-insure and make any appropriation of
29 funds to cover their risk~~;~~ ;

30 b. ~~secure~~ 2. Secure reinsurance or excess insurance over and
31 above a self-insured retention in any manner authorized by
32

1 subsection B of Section 168 of Title 51 of the Oklahoma Statutes ~~7i~~
2 or

3 ~~e. insure~~ 3. Insure with other insurance carriers licensed
4 in the State of Oklahoma.

5 ~~5. D.~~ D. Comprehensive universities shall insure against their
6 liability for workers' compensation with the State Insurance Fund;
7 or if it can be demonstrated to the Board of Regents of the
8 comprehensive university prior to the inception date of a workers'
9 compensation policy that the policy will result in a lower cost than
10 one with the State Insurance Fund, ~~the comprehensive university may~~
11 insure or, through any combination of the following, may:

12 ~~a. self-insure~~ 1. Self-insure and make any appropriation
13 of funds to cover their risk ~~7i~~ or

14 ~~b. insure~~ 2. Insure with other insurance carriers
15 licensed in the State of Oklahoma.

16 ~~E. E.~~ E. In addition to any other provision of this section, city,
17 county, city-county, and public trust hospitals may insure with
18 other insurance carriers licensed in this state if it can be
19 demonstrated to the governing body of the hospital prior to the
20 inception date of a workers' compensation policy each year that ~~such~~
21 the policy will result in a lower cost than one with the State
22 Insurance Fund.

23 ~~D. F.~~ F. For purposes of the Workers' Compensation Act, all
24 contracts of employment for state, county, municipal, and state
25 funded educational entities and public trusts will be considered to
26 have been entered into in this state regardless of where the work is
27 performed.

28 ~~E. G.~~ G. Where a person who is employed by the state, a
29 municipality ~~or~~, a county, or by any political subdivisions thereof,
30 and who, while off-duty from the employment, is employed by a
31 private employer, the private employer alone shall be liable for
32 compensation under the Workers' Compensation Act for any injury ~~of~~

1 ~~the person~~ or ~~his~~ death of the person arising out of and in the
2 course of employment which occurs during the hours of ~~his~~ actual
3 employment by the private employer. The provisions of Section 11 of
4 this title shall be applicable to private employers specified in
5 this subsection. The provisions of this subsection shall not
6 relieve the state, a municipality or a county, or any political
7 subdivision thereof, from providing disability benefits to which a
8 person may be entitled pursuant to a pension or retirement plan.
9 ~~Provided, further, the~~ The provisions of this subsection shall not
10 preclude an employee or group of employees so employed from
11 providing separate compensation coverage for off-duty employment by
12 a private employer.

13 SECTION 3. AMENDATORY 85 O.S. 1991, Section 3, as last
14 amended by Section 3, Chapter 361, O.S.L. 1997 (85 O.S. Supp. 1998,
15 Section 3), is amended to read as follows:

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

- 17 1. "Administrator" means the Administrator of workers'
18 compensation as provided for in the Workers' Compensation Act;
- 19 2. "Claimant" means a person who claims benefits for an injury
20 pursuant to the provisions of the Workers' Compensation Act;
- 21 3. "Court" means the Workers' Compensation Court;
- 22 4. "Cumulative trauma" means an injury resulting from
23 employment activities which are repetitive in nature and engaged in
24 over a period of time;
- 25 5. "Employer", except when otherwise expressly stated, means a
26 person, partnership, association, limited liability company,
27 corporation, and the legal representatives of a deceased employer,
28 or the receiver or trustee of a person, partnership, association,
29 corporation, or limited liability company, departments,
30 instrumentalities and institutions of this state and divisions
31 thereof, counties and divisions thereof, public trusts, boards of
32 education and incorporated cities or towns and divisions thereof,

1 employing a person included within the term "employee" as herein
2 defined;

3 6. "Employee" means any person engaged in the employment of any
4 person, firm, limited liability company or corporation covered by
5 the terms of the Workers' Compensation Act, and shall include
6 workers associating themselves together under an agreement for the
7 performance of a particular piece of work, in which event such
8 persons so associating themselves together shall be deemed employees
9 of the person having the work executed; provided, that if such
10 associated workers shall employ a worker in the execution of such
11 contract, then as to such employed worker, both the associated
12 employees and the principal employer shall at once become subject to
13 the provisions of the Workers' Compensation Act relating to
14 independent contractors. Sole proprietors, members of a
15 partnership, members of a limited liability company who own at least
16 ten percent (10%) of the capital of the limited liability company or
17 any stockholder-employees of a corporation who own ten percent (10%)
18 or more stock in the corporation are specifically excluded from the
19 foregoing definition of "employee", and shall not be deemed to be
20 employees as respects the benefits of the Workers' Compensation Act.
21 Provided, a sole proprietor, member of a partnership, member of a
22 limited liability company who owns at least ten percent (10%) of the
23 capital of the limited liability company or any stockholder-employee
24 of a corporation who owns ten percent (10%) or more stock in the
25 corporation who does not so elect to be covered by a policy of
26 insurance covering benefits under the Workers' Compensation Act,
27 when acting as a subcontractor, shall not be eligible to be covered
28 under the prime contractor's policy of workers' compensation
29 insurance; however, nothing herein shall relieve the entities
30 enumerated from providing workers' compensation insurance coverage
31 for their employees. Sole proprietors, members of a partnership,
32 members of a limited liability company who own at least ten percent

1 (10%) of the capital of the limited liability company or any
2 stockholder-employees of a corporation who own ten percent (10%) or
3 more stock in the corporation may elect to include the sole
4 proprietors, any or all of the partnership members, any or all of
5 the limited liability company members or any or all stockholder-
6 employees as employees, if otherwise qualified, by endorsement to
7 the policy specifically including them under any policy of insurance
8 covering benefits under the Workers' Compensation Act. When so
9 included the sole proprietors, members of a partnership, members of
10 a limited liability company or any or all stockholder-employees
11 shall be deemed to be employees as respects the benefits of the
12 Workers' Compensation Act. "Employee" shall also include any person
13 who is employed by the departments, instrumentalities and
14 institutions of this state and divisions thereof, counties and
15 divisions thereof, public trusts, boards of education and
16 incorporated cities or towns and divisions thereof. "Employee"
17 shall also include a member of the Oklahoma National Guard while in
18 the performance of duties only while in response to state orders for
19 state active duty authorized under Section 72 of Title 44 of the
20 Oklahoma Statutes, and any authorized voluntary or uncompensated
21 worker, rendering services as a fire fighter, peace officer, or
22 civil defense worker. Provided, "employee" shall not include any
23 other person providing or performing voluntary service who receives
24 no wages for the services other than meals, drug or alcohol
25 rehabilitative therapy, transportation, lodging or reimbursement for
26 incidental expenses. "Employee" shall also include a participant in
27 a sheltered workshop program which is certified by the United States
28 Department of Labor. "Employee" shall not include a person,
29 commonly referred to as an owner-operator, who owns or leases a
30 truck-tractor or truck for hire, if the owner-operator actually
31 operates the truck-tractor or truck and if the person contracting
32 with the owner-operator is not the lessor of the truck-tractor or

1 truck. Provided, however, an owner-operator shall not be precluded
2 from workers' compensation coverage under the Workers' Compensation
3 Act if the owner-operator elects to participate as a sole
4 proprietor. "Employee" shall not include a person referred to as a
5 drive-away owner-operator who privately owns and utilizes a tow
6 vehicle in drive-away operations and operates independently for
7 hire, if the drive-away owner-operator actually utilizes the tow
8 vehicle and if the person contracting with the drive-away owner-
9 operator is not the lessor of the tow vehicle. Provided, however, a
10 drive-away owner-operator shall not be precluded from workers'
11 compensation coverage under the Workers' Compensation Act if the
12 drive-away owner-operator elects to participate as a sole
13 proprietor;

14 7. "Drive-away operations" include every person engaged in the
15 business of transporting and delivering new or used vehicles by
16 driving, either singly or by towbar, saddle mount or full mount
17 method, or any combination thereof, with or without towing a
18 privately owned vehicle;

19 8. "Employment" includes work or labor in a trade, business,
20 occupation or activity carried on by an employer or any authorized
21 voluntary or uncompensated worker rendering services as a fire
22 fighter, peace officer or civil defense worker;

23 9. "Compensation" means the money allowance payable to an
24 employee as provided for in the Workers' Compensation Act;

25 10. a. "Injury" or "personal injury" means only accidental
26 injuries arising out of and in the course of
27 employment and such disease or infection as may
28 naturally result therefrom and occupational disease
29 arising out of and in the course of employment as
30 herein defined. Only injuries having as their source
31 a risk not purely personal but one that is causally
32

1 connected with the conditions of employment shall be
2 deemed to arise out of the employment.

3 b. "Injury" or "personal injury" includes heart-related
4 or vascular injury, illness or death only if resultant
5 from stress in excess of that experienced by a person
6 in the conduct of everyday living. Such stress must
7 arise out of and in the course of a claimant's
8 employment.

9 c. "Injury" or "personal injury" shall not include mental
10 injury that is unaccompanied by physical injury,
11 except in the case of rape which arises out of and in
12 the course of employment;

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

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

22 13. "Occupational disease" means only that disease or illness
23 which is due to causes and conditions characteristic of or peculiar
24 to the particular trade, occupation, process or employment in which
25 the employee is exposed to such disease. An occupational disease
26 arises out of the employment only if there is a direct causal
27 connection between the occupational disease and the conditions under
28 which the work is performed;

29 14. "Permanent impairment" means any anatomical or functional
30 abnormality or loss after maximum medical improvement has been
31 achieved, which abnormality or loss the physician considers to be
32 capable of being evaluated at the time the rating is made. Except

1 as otherwise provided herein, any examining physician shall only
2 evaluate impairment in accordance with the latest publication of the
3 American Medical Association's "Guides to the Evaluation of
4 Permanent Impairment" in effect at the time of the injury. The
5 Physician Advisory Committee may, pursuant to Section 201.1 of this
6 title, recommend the adoption of a method or system to evaluate
7 permanent impairment that shall be used in place of or in
8 combination with the American Medical Association's "Guides to the
9 Evaluation of Permanent Impairment". Such recommendation shall be
10 made to the Administrator of the Workers' Compensation Court who may
11 adopt the recommendation in part or in whole. The adopted method or
12 system shall be submitted by the Administrator to the Governor, the
13 Speaker of the House of Representatives and the President Pro
14 Tempore of the Senate within the first ten (10) legislative days of
15 a regular session of the Legislature. Such method or system to
16 evaluate permanent impairment that shall be used in place of or in
17 combination with the American Medical Association's "Guides to the
18 Evaluation of Permanent Impairment" shall be subject to disapproval
19 in whole or in part by joint or concurrent resolution of the
20 Legislature during the legislative session in which submitted. Such
21 method or system shall be operative one hundred twenty (120) days
22 after the last day of the month in which the Administrator submits
23 the adopted method or system to the Legislature if the Legislature
24 takes no action or one hundred twenty (120) days after the last day
25 of the month in which the Legislature disapproves it in part. If
26 adopted, permanent impairment shall be evaluated only in accordance
27 with the latest version of the alternative method or system in
28 effect at the time of injury. All evaluations shall include an
29 apportionment of injury causation. However, revisions to the guides
30 made by the American Medical Association which are published after
31 January 1, 1989, and before January 1, 1995, shall be operative one
32 hundred twenty (120) days after the last day of the month of

1 publication. Revisions to the guides made by the American Medical
2 Association which are published after December 31, 1994, may be
3 adopted in whole or in part by the Administrator following
4 recommendation by the Physician Advisory Committee. Revisions
5 adopted by the Administrator shall be submitted by the Administrator
6 to the Governor, the Speaker of the House of Representatives and the
7 President Pro Tempore of the Senate within the first ten (10)
8 legislative days of a regular session of the Legislature. Such
9 revisions shall be subject to disapproval in whole or in part by
10 joint or concurrent resolution of the Legislature during the
11 legislative session in which submitted. Revisions shall be
12 operative one hundred twenty (120) days after the last day of the
13 month in which the Administrator submits the revisions to the
14 Governor and the Legislature if the Legislature takes no action or
15 one hundred twenty (120) days after the last day of the month in
16 which the Legislature disapproves them in part. The examining
17 physician shall not follow the guides based on race or ethnic
18 origin. The examining physician shall not deviate from said guides
19 or any alternative thereto except as may be specifically provided
20 for in the guides or modifications to the guides or except as may be
21 specifically provided for in any alternative or modifications
22 thereto, adopted by the Administrator of the Workers' Compensation
23 Court as provided for in Section 201.1 of this title. These
24 officially adopted guides or modifications thereto or alternative
25 system or method of evaluating permanent impairment or modifications
26 thereto shall be the exclusive basis for testimony and conclusions
27 with regard to permanent impairment with the exception of paragraph
28 3 of Section 22 of this title, relating to scheduled member injury
29 or loss; and impairment, including pain or loss of strength, may be
30 awarded with respect to those injuries or areas of the body not
31 specifically covered by said guides or alternative to said guides;

32

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

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

11 17. "Maximum medical improvement" means that no further
12 material improvement would reasonably be expected from medical
13 treatment or the passage of time;

14 18. "Independent medical examiner" means a licensed physician
15 authorized to serve as a medical examiner pursuant to Section 17 of
16 this title;

17 19. a. "Certified workplace medical plan" means an
18 organization of health care providers or any other
19 entity, certified by the Commissioner of Health
20 pursuant to Section 14.3 of this title, that is
21 authorized to enter into a contractual agreement with
22 a self-insured employer, group self-insurance
23 association plan, an employer's workers' compensation
24 insurance carrier or an insured, which shall include
25 any member of an approved group self-insured
26 association, policyholder or public entity, regardless
27 of whether such entity is insured by the State
28 Insurance Fund, to provide medical care under the
29 Workers' Compensation Act. Certified plans shall only
30 include such plans which provide medical services and
31 payment for services on a fee-for-service basis to
32 medical providers and shall not include other plans

1 which contract in some other manner, such as capitated
2 or pre-paid plans.

3 b. If any insurer except, the State Insurance Fund, fails
4 to contract with or provide access to a certified
5 workplace medical plan, an insured, after sixty (60)
6 days' written notice to its insurance carrier, shall
7 be authorized to contract independently with a plan of
8 his or her choice for a period of one (1) year, to
9 provide medical care under the Workers' Compensation
10 Act. The insured shall be authorized to contract,
11 after sixty (60) days' written notice to its insurance
12 carrier, for additional one-year periods if his or her
13 insurer has not contracted with or provided access to
14 a certified workplace medical plan.

15 c. If the State Insurance Fund fails to contract with at
16 least three certified workplace medical plans, each
17 covering at least fifty counties, then the insured,
18 after sixty (60) days' written notice to the State
19 Insurance Fund, shall be authorized to contract
20 independently with a plan of his or her choice for a
21 period of one (1) year to provide medical care under
22 the Workers' Compensation Act. The insured shall be
23 authorized to contract, after sixty (60) days' written
24 notice to the State Insurance Fund, for additional
25 one-year periods if the State Insurance Fund has not
26 contracted with or fails to continue contracts with at
27 least three certified workplace medical plans covering
28 at least fifty counties; and

29 20. "Treating physician" or "attending physician" means the
30 licensed physician who has provided or is providing medical care to
31 the injured employee.
32

1 SECTION 4. AMENDATORY 85 O.S. 1991, Section 22, as last
2 amended by Section 43 of Enrolled House Bill No. 1845 of the 1st
3 Session of the 47th Oklahoma Legislature, is amended to read as
4 follows:

5 Section 22. The following schedule of compensation is hereby
6 established:

7 1. Permanent Total Disability. In case of total disability
8 adjudged to be permanent, seventy percent (70%) of the employee's
9 average weekly wages shall be paid to the employee during the
10 continuance of such total disability.

11 2. Temporary Total Disability. (a) With respect to injuries
12 occurring before November 4, 1994, in cases of temporary total
13 disability, seventy percent (70%) of the employee's average weekly
14 wages shall be paid to the employee during the continuance thereof,
15 but not in excess of one hundred fifty (150) weeks, except as
16 otherwise provided in the Workers' Compensation Act. Provided,
17 after compensation has been paid for a period of one hundred forty
18 (140) weeks, the employee may request a review of the case by a
19 judge of the Workers' Compensation Court for continued temporary
20 total disability benefits provided by the Workers' Compensation Act.
21 Upon a finding that benefits should be extended beyond the initial
22 one-hundred-fifty-week period, compensation may be continued for an
23 additional one hundred fifty (150) weeks.

24 (b) With respect to injuries occurring on or after November 4,
25 1994, in cases of temporary total disability, seventy percent (70%)
26 of the employee's average weekly wages shall be paid to the employee
27 during the continuance thereof, but not in excess of fifty-two (52)
28 weeks, except as otherwise provided in the Workers' Compensation
29 Act. Provided, after compensation has been paid for a period of
30 forty-two (42) weeks, the employee may request a review of the case
31 by a judge of the Court for continued temporary total disability
32 benefits provided by the Workers' Compensation Act. Upon a finding

1 that benefits should be extended beyond the initial fifty-two-week
2 period, compensation may be continued for additional successive
3 fifty-two-week periods, provided the employee has requested review
4 of the case at forty-two (42) weeks during each period involved, and
5 upon a finding by the Court that benefits should be extended. Total
6 payments of compensation for temporary total disability may not
7 exceed a maximum of three hundred (300) weeks in the aggregate.

8 (c) With respect to injuries occurring on or after November 1,
9 1997, total payments of compensation for temporary total disability
10 may not exceed a maximum of one hundred fifty-six (156) weeks in the
11 aggregate except for good cause shown, as determined by the Court.

12 3. Permanent Partial Disability. (a) With respect to injuries
13 occurring prior to November 4, 1994, in case of disability, partial
14 in character but permanent in quality, the compensation shall be
15 seventy percent (70%) of the employee's average weekly wages, and
16 shall be paid to the employee for the period named in the schedule,
17 as follows:

18 Thumb: For the loss of thumb, sixty (60) weeks.

19 First Finger: For the loss of the first finger, commonly called
20 the index finger, thirty-five (35) weeks.

21 Second Finger: For the loss of a second finger, thirty (30)
22 weeks.

23 Third Finger: For the loss of a third finger, twenty (20)
24 weeks.

25 Fourth Finger: For the loss of a fourth finger, commonly called
26 the little finger, fifteen (15) weeks.

27 Phalange of Thumb or Finger: The loss of the first phalange of
28 the thumb or finger shall be considered equal to the loss of one-
29 half (1/2) of such thumb or finger, and compensation shall be one-
30 half (1/2) of the amount above specified; the loss of more than one
31 phalange shall be considered as the loss of the entire thumb or
32 finger; provided, however, that in no case shall the amount received

1 for more than one finger exceed the amount provided in this schedule
2 for the loss of a hand.

3 Great Toe: For the loss of a great toe, thirty (30) weeks.

4 Other Toes: For the loss of one of the toes other than the
5 great toe, ten (10) weeks.

6 Phalange of Toe: The loss of the first phalange of any toe
7 shall be considered to be equal to the loss of one-half (1/2) of the
8 amount specified. The loss of more than one phalange shall be
9 considered as the loss of the entire toe.

10 Hand: For the loss of a hand, two hundred (200) weeks.

11 Arm: For the loss of an arm, two hundred fifty (250) weeks.

12 Foot: For the loss of a foot, two hundred (200) weeks.

13 Leg: For the loss of a leg, two hundred fifty (250) weeks.

14 Eye: For the loss of an eye, two hundred fifty (250) weeks.

15 Deafness: Deafness from industrial cause, including occupations
16 which are hazardous to hearing, accident or sudden trauma, three
17 hundred (300) weeks, and total deafness of one ear from industrial
18 cause, including occupations which are hazardous to hearing,
19 accident or sudden trauma, one hundred (100) weeks. Except as
20 otherwise provided herein, any examining physician shall only
21 evaluate deafness or hearing impairment in accordance with the
22 latest publication of the American Medical Association's "Guides to
23 the Evaluation of Permanent Impairment" in effect at the time of the
24 injury. The Physician Advisory Committee may, pursuant to Section
25 201.1 of this title, recommend the adoption of a method or system to
26 evaluate permanent impairment that shall be used in place of or in
27 combination with the American Medical Association's "Guides to the
28 Evaluation of Permanent Impairment". Such recommendation shall be
29 made to the Administrator of the Workers' Compensation Court who may
30 adopt the recommendation in part or in whole. The adopted method or
31 system shall be submitted by the Administrator to the Governor, the
32 Speaker of the House of Representatives and President Pro Tempore of

1 the Senate within the first ten (10) legislative days of a regular
2 session of the Legislature. Such method or system to evaluate
3 permanent impairment that shall be used in place of or in
4 combination with the American Medical Association's "Guides to the
5 Evaluation of Permanent Impairment" shall be subject to disapproval
6 in whole or in part by joint or concurrent resolution of the
7 Legislature during the legislative session in which submitted. Such
8 method or system shall be operative one hundred twenty (120) days
9 after the last day of the month in which the Administrator submits
10 the adopted method or system to the Legislature if the Legislature
11 takes no action or one hundred twenty (120) days after the last day
12 of the month in which the Legislature disapproves it in part. If
13 adopted, permanent impairment shall be evaluated only in accordance
14 with the latest version of the alternative method or system in
15 effect at the time of injury. All evaluations shall include an
16 apportionment of injury causation. However, revisions to the guides
17 made by the American Medical Association which are published after
18 January 1, 1989, and before January 1, 1995, shall be operative one
19 hundred twenty (120) days after the last day of the month of
20 publication. Revisions to the guides made by the American Medical
21 Association which are published after December 31, 1994, may be
22 adopted in whole or in part by the Administrator following
23 recommendation by the Physician Advisory Committee. Revisions
24 adopted by the Administrator shall be submitted by the Administrator
25 to the Governor, the Speaker of the House of Representatives and
26 President Pro Tempore of the Senate within the first ten (10)
27 legislative days of a regular session of the Legislature. Such
28 revisions shall be subject to disapproval in whole or in part by
29 joint or concurrent resolution of the Legislature during the
30 legislative session in which submitted. Revisions shall be
31 operative one hundred twenty (120) days after the last day of the
32 month in which the Administrator submits the revisions to the

1 Legislature if the Legislature takes no action or one hundred twenty
2 (120) days after the last day of the month in which the Legislature
3 disapproves them in part. The examining physician shall not follow
4 the guides based on race or ethnic origin. The examining physician
5 shall not deviate from said guides or any alternative thereof except
6 as may be specifically provided for in the guides or modifications
7 to the guides or except as may be specifically provided for in any
8 alternative or modifications thereto adopted by the Administrator of
9 the Workers' Compensation Court as provided for in Section 201.1 of
10 this title. The guides or modifications thereto or alternative
11 system or method of evaluating permanent impairment or modifications
12 thereto shall be the exclusive basis for testimony and conclusions
13 with regard to deafness or hearing impairment.

14 Loss of Use: Permanent loss of use of a thumb, finger, toe,
15 arm, hand, foot, leg or eye shall be considered as the equivalent of
16 the loss of such thumb, finger, toe, hand, arm, foot, leg or eye.

17 For the permanent partial loss of use of a member, loss of
18 hearing or sight of an eye, seventy percent (70%) of the employee's
19 average weekly wage during that portion of the number of weeks in
20 the foregoing schedule provided for the loss of such member or sight
21 of an eye which the partial loss of use thereof bears to the total
22 loss of use of such member, loss of hearing or sight of an eye.

23 Amputations: Amputation between the elbow and the wrist shall
24 be considered as the equivalent of the loss of a hand. Amputation
25 between the knee and the ankle shall be considered as the loss of a
26 foot. Amputation at or above the elbow shall be considered as the
27 loss of an arm. Amputation at or above the knee shall be considered
28 as the loss of a leg.

29 The compensation for the foregoing specific injuries shall be in
30 lieu of all other compensation except the benefits provided in
31 Section 14 of this title and Section 16 of this title.

32 In case of an injury resulting in serious and permanent

1 disfigurement, compensation shall be payable in an amount to be
2 determined by the Court, but not in excess of Twenty Thousand
3 Dollars (\$20,000.00); provided, that compensation for permanent
4 disfigurement shall not be in addition to the other compensation
5 provided for in this section, but shall be taken into consideration
6 in fixing the compensation otherwise provided.

7 Hernia: In case of an injury resulting in hernia, temporary
8 total compensation for fourteen (14) weeks, and the cost of an
9 operation shall be payable; provided, in any case where the injured
10 employee has been twice previously operated for hernia in the same
11 area and it is established by opinion of a competent surgeon that
12 further surgery in the same area will not result in full relief of
13 the condition, the Court may then award compensation for disability
14 resulting therefrom under paragraph 1 of this section, or, if not
15 totally and permanently disabled, then under the "Other Cases"
16 subdivision following, and, after a second surgical attempt to
17 repair hernia, the injured may not be required to submit to further
18 surgery in an effort to relieve the disability thereafter existing;
19 provided, further, the use of any artificial reinforcement or
20 device, with or without surgery, shall not be the basis of reducing
21 extent of disability to be awarded.

22 Other Cases: In all other classes of disabilities, excluding
23 only those heretofore referred to in paragraph 3 of this section,
24 which disabilities result in loss of use of any portion of an
25 employee's body, and which disabilities are permanent in quality but
26 partial in character, disability shall mean the percentage of
27 permanent impairment. The compensation ordered paid shall be
28 seventy percent (70%) of the employee's average weekly wage for the
29 number of weeks which the partial disability of the employee bears
30 to five hundred (500) weeks.

31 (b) With respect to injuries occurring after November 4, 1994,
32 in case of disability, partial in character but permanent in

1 quality, the compensation shall be seventy percent (70%) of the
2 employee's average weekly wages, and shall be paid to the employee
3 for the period prescribed by the following schedule:

4 (1) For each percent of the first nine percent (9%) of
5 disability, eighty percent (80%) of the number of weeks of
6 compensation provided by law prior to November 4, 1994;

7 (2) For each percent of the next eleven percent (11%) of
8 disability, the identical number of weeks of compensation provided
9 by law prior to November 4, 1994;

10 (3) For each percent of the next thirty percent (30%) of
11 disability, one hundred twenty percent (120%) of the number of weeks
12 of compensation provided by law prior to November 4, 1994; and

13 (4) For each remaining percent of disability, the identical
14 number of weeks of compensation provided by law prior to November 4,
15 1994.

16 (c) With respect to injuries not listed in subparagraph (a) of
17 this paragraph, any claimant whose injury does not prevent the
18 claimant from returning to employment with the same employer at the
19 same or greater rate of pay, shall not be eligible for a permanent
20 disability award.

21 4. Temporary Partial Disability. (a) With respect to injuries
22 occurring before November 4, 1994, in case of temporary partial
23 disability, except the particular cases mentioned in paragraph 3 of
24 this section, an injured employee shall receive seventy percent
25 (70%) of the difference between the employee's average weekly wages
26 and the employee's wage-earning capacity thereafter in the same
27 employment or otherwise, if less than before the injury, during
28 continuance of such partial disability, but not to exceed one
29 hundred fifty (150) weeks. Provided, after compensation has been
30 paid for a period of one hundred forty (140) weeks, the employee may
31 request a review of the case by a judge of the Court for continued
32 temporary partial disability benefits provided by the Workers'

1 Compensation Act. Upon a finding that benefits should be extended
2 beyond the initial one-hundred-fifty-week period, compensation may
3 be continued for an additional one hundred fifty (150) weeks.

4 (b) With respect to injuries occurring on or after November 4,
5 1994, in case of temporary partial disability, except the particular
6 cases mentioned in paragraph 3 of this section, an injured employee
7 shall receive seventy percent (70%) of the difference between the
8 employee's average weekly wages and the employee's wage-earning
9 capacity thereafter in the same employment or otherwise, if less
10 than before the injury, during continuance of such partial
11 disability, but not to exceed fifty-two (52) weeks. Provided, after
12 compensation has been paid for a period of forty-two (42) weeks, the
13 employee may request a review of the case by a judge of the Court
14 for continued temporary partial disability benefits provided by the
15 Workers' Compensation Act. Upon a finding that benefits should be
16 extended beyond the initial fifty-two-week period, compensation may
17 be continued for additional successive fifty-two-week periods
18 provided the employee has requested review of the case at forty-two
19 (42) weeks during each period involved, and upon a finding by the
20 Court that benefits should be extended. Total payments of
21 compensation for temporary partial disability may not exceed a
22 maximum of three hundred (300) weeks in the aggregate.

23 (c) With respect to injuries occurring on or after November 1,
24 1997, total payments of compensation for temporary partial
25 disability may not exceed a maximum of one hundred fifty-six (156)
26 weeks in the aggregate except for good cause shown, as determined by
27 the Court.

28 5. Notwithstanding any other section of the Workers'
29 Compensation Act, temporary disability shall be payable without an
30 award by the Court. The first payment of temporary disability
31 compensation shall become due on the tenth day after the employer
32 has received notice of injury as specified in Section 24.2 of this

1 title. All compensation owed on that date shall be paid and
2 thereafter payments shall be made weekly except when otherwise
3 ordered by the Court.

4 If any compensation payments owed without an award are not paid
5 within ten (10) days after becoming due there shall be added to such
6 owed payments an amount equal to ten percent (10%) of the amount due
7 which shall be paid at the same time in addition to the owed
8 payments unless such nonpayment is excused by the Court after a
9 showing by the employer that conditions exist over which the
10 employer had no control in that either payments were not made within
11 the prescribed time or the employer denies coverage within the time
12 specified for the employer to respond.

13 6. Limitation. The compensation payments under the provisions
14 of the Workers' Compensation Act shall not exceed the sum of
15 seventy-five percent (75%) of the state's average weekly wage as
16 determined by the Oklahoma Employment Security Commission, the sum
17 of ninety percent (90%) of the state's average weekly wage beginning
18 January 1, 1995, for injuries occurring after December 31, 1994, and
19 the sum of one hundred percent (100%) of the state's average weekly
20 wage beginning January 1, 1996, for injuries occurring after
21 December 31, 1995, for temporary disability; Sixty Dollars (\$60.00)
22 per week beginning as of the effective date of the Workers'
23 Compensation Act, and Seventy Dollars (\$70.00) per week beginning
24 January 1, 1979, and Eighty Dollars (\$80.00) per week beginning
25 January 1, 1980, and Ninety Dollars (\$90.00) per week beginning
26 January 1, 1981, and to fifty percent (50%) of the state's average
27 weekly wage beginning January 1, 1982, for permanent partial
28 disability; Seventy-five Dollars (\$75.00) per week beginning as of
29 the effective date of the Workers' Compensation Act, and Ninety
30 Dollars (\$90.00) per week beginning January 1, 1979, and One Hundred
31 Ten Dollars (\$110.00) per week beginning January 1, 1980, to sixty-
32 six and two-thirds percent (66 2/3%) of the state's average weekly

1 wage beginning January 1, 1981, to seventy-five percent (75%) of the
2 state's average weekly wage beginning September 1, 1992, to ninety
3 percent (90%) of the state's average weekly wage beginning January
4 1, 1995, for injuries occurring after December 31, 1994, and to one
5 hundred percent (100%) of the state's average weekly wage beginning
6 January 1, 1996, for injuries occurring after December 31, 1995, for
7 permanent total disability, or at any time be less than Thirty
8 Dollars (\$30.00) per week; provided, however, that if the employee's
9 wages at the time of the injury are less than Thirty Dollars
10 (\$30.00) per week, the employee shall receive the employee's full
11 weekly wages; provided further, that the compensation received, as
12 provided for temporary partial disability, shall not, when added to
13 the wages received by such employee after such injury, amount to a
14 greater sum than eighty percent (80%) of his average weekly wages
15 received prior to said injury.

16 The average weekly wage in this state shall be determined by the
17 Oklahoma Employment Security Commission every three (3) years
18 beginning July 1, 1984, and shall be used to establish maximum
19 benefits under the Workers' Compensation Act for injuries occurring
20 during a three-year period, which period shall begin on the first
21 day of November after publication by the Oklahoma Employment
22 Security Commission. For the purpose of computing benefits payable
23 under the Workers' Compensation Act, the state's average weekly wage
24 shall be rounded to the nearest dollar amount.

25 The benefit level for members of the National Guard and any
26 authorized voluntary or uncompensated worker rendering services as a
27 fire fighter, peace officer or civil defense worker shall be
28 determined by using the earnings of the individual in the
29 individual's regular occupation.

30 7. Previous Disability. The fact that an employee has suffered
31 previous disability or impairment or received compensation therefor
32 shall not preclude the employee from compensation for a later

1 accidental personal injury or occupational disease; but in
2 determining compensation for the later accidental personal injury or
3 occupational disease the employee's average weekly wages shall be
4 such sum as will reasonably represent the employee's earning
5 capacity at the time of the later accidental personal injury or
6 occupational disease. In the event there exists a previous
7 impairment which produced permanent disability and the same is
8 aggravated or accelerated by an accidental personal injury or
9 occupational disease, compensation for permanent disability shall be
10 only for such amount as was caused by such accidental personal
11 injury or occupational disease and no additional compensation shall
12 be allowed for the pre-existing disability or impairment. The sum
13 of all permanent partial disability awards, including awards against
14 the Special Indemnity Fund, shall not exceed one hundred percent
15 (100%) permanent partial disability for any individual. An
16 individual may not receive more than five hundred twenty (520)
17 weeks' compensation for permanent partial disability, but may
18 receive other benefits under the Workers' Compensation Act if
19 otherwise eligible as provided in the Workers' Compensation Act.

20 8. Income benefits for death. If the injury or occupational
21 disease causes death, income benefits shall be payable in the amount
22 and for the benefit of the persons following, subject to the maximum
23 limits specified hereafter:

24 (a) Benefit amounts for particular classes of dependents.

25 (1) If there is a surviving spouse, to such surviving spouse
26 seventy percent (70%) of the average weekly wages the deceased was
27 earning. In no event shall this spousal income benefit be
28 diminished.

29 (2) If there is a child or children, to such child or children
30 fifteen percent (15%) of the average weekly wages the deceased was
31 earning for each child. Where there are more than two such
32 children, the income benefits payable for the benefit of all

1 children shall be divided among all children, to share and share
2 alike, subject to the provisions of subparagraphs (c) and (d) of
3 this paragraph.

4 (3) In addition to the benefits theretofore paid or due, two
5 (2) years' indemnity benefit in one lump sum shall be payable to a
6 surviving spouse upon remarriage.

7 (4) To the children, if there is no surviving spouse, fifty
8 percent (50%) of the average weekly wages the deceased was earning
9 for one child, and twenty percent (20%) of such wage for each
10 additional child, divided among all children, to share and share
11 alike, subject to the provisions of subparagraphs (c) and (d) of
12 this paragraph.

13 (5) The income benefits payable for the benefit of any child
14 under this section shall cease:

- 15 a. when the child dies, marries, or reaches the age of
16 eighteen (18),
- 17 b. when the child over eighteen (18) years of age ceases
18 to be physically or mentally incapable of self-
19 support,
- 20 c. when the actually dependent child ceases to be
21 actually dependent, or
- 22 d. when the child has been enrolled as a full-time
23 student in any accredited educational institution or
24 has been receiving education by other means, including
25 education at home pursuant to Section 4 of Article
26 XIII of the Oklahoma Constitution, and the child
27 ceases to be so enrolled or educated or reaches
28 twenty-three (23) years of age. A child who
29 originally qualified as a dependent by virtue of being
30 less than eighteen (18) years of age may, upon
31 reaching eighteen (18) years of age, continue to
32 qualify if the child satisfies the tests of being

1 physically or mentally incapable of self-support,
2 actually dependent, or enrolled in an accredited
3 educational institution or being educated by other
4 means, including education at home pursuant to Section
5 4 of Article XIII of the Oklahoma Constitution.

6 (6) To each parent, if actually dependent, twenty-five percent
7 (25%) of the average weekly wages the deceased was earning subject
8 to the provisions of subparagraphs (c) and (d) of this paragraph.

9 (7) To the brothers, sisters, grandparents and grandchildren,
10 if actually dependent, twenty-five percent (25%) of the average
11 weekly wages the deceased was earning to each such dependent. If
12 there should be more than one of such dependents, the total income
13 benefits payable for the benefit of such dependents shall be divided
14 to share and share alike subject to the provisions of subparagraphs
15 (c) and (d) of this paragraph.

16 (8) The income benefits of each beneficiary under divisions (6)
17 and (7) above shall be paid until the beneficiary, if a parent or
18 grandparent, dies, marries or ceases to be actually dependent, or,
19 if a brother, sister or grandchild, dies, marries or reaches the age
20 of eighteen (18), is over the age of eighteen (18) and ceases to be
21 physically or mentally incapable of self-support or ceases to be
22 actually dependent.

23 (9) A person ceases to be actually dependent when his income
24 from all sources exclusive of workers' compensation income benefits
25 is such that, if it had existed at the time the original
26 determination of actual dependency was made, it would not have
27 supported a finding of dependency. If the present annual income of
28 an actually dependent person including workers' compensation income
29 benefits at any time exceeds the total annual support received by
30 the person from the deceased employee, the workers' compensation
31 benefits shall be reduced so that the total annual income is no
32 greater than such amount of annual support received from the

1 deceased employee. In all cases, a person found to be actually
2 dependent shall be presumed to be no longer actually dependent three
3 (3) years after the time as of which the person was found to be
4 actually dependent. This presumption may be overcome by proof of
5 continued actual dependency as defined in this paragraph and
6 paragraph (1) of Section 3.1 of this title.

7 (b) Change in dependents. Upon the cessation of income
8 benefits under this section to or for the benefit of any person, the
9 income benefits payable to the remaining persons who continue to be
10 entitled to income benefits for the unexpired part of the period
11 during which their income benefits are payable shall be that which
12 such persons would have received if they had been the only persons
13 entitled to income benefits at the time of the decedent's death.

14 (c) Maximum income benefits for death. For the purposes of
15 this section, the average weekly wage of the employee shall be taken
16 as not more than the average weekly wage of the state. In no case
17 shall the aggregate weekly income benefits payable to all
18 beneficiaries under this section exceed the maximum income benefits
19 that were or would have been payable for total permanent disability
20 to the deceased.

21 (d) Maximum total payment. The maximum weekly income benefits
22 payable for all beneficiaries in case of death shall not exceed one
23 hundred percent (100%) of the average weekly wages the deceased was
24 earning, subject to the maximum limits in subparagraph (c) of this
25 paragraph. The maximum aggregate limitation shall not apply in case
26 of payment of two (2) years' income benefits to the surviving spouse
27 upon remarriage, as provided under division (3) of subparagraph (a)
28 of this paragraph, to prevent the immediate recalculation and
29 payments of benefits to the remaining beneficiaries as provided
30 under subparagraph (b) of this paragraph. The weekly income
31 benefits as recalculated to the remaining beneficiaries shall not
32 exceed the weekly benefit that was or would have been payable for

1 total permanent disability to the deceased. The classes of
2 beneficiaries specified in divisions (1), (2) and (4) of
3 subparagraph (a) of this paragraph shall have priority over all
4 other beneficiaries in the apportionment of income benefits. If the
5 provisions of this subparagraph should prevent payments to other
6 beneficiaries of the income benefits to the full extent otherwise
7 provided for by this section, the gross remaining amount of income
8 benefits payable to such other beneficiaries shall be apportioned by
9 class, proportionate to the interest of each class in the remaining
10 amount. Parents shall be considered to be in one class and those
11 specified in division (7) of subparagraph (a) of this paragraph in a
12 separate class.

13 9. Where some pecuniary loss may be shown by heirs-at-law of
14 the deceased, as defined by the descent and distribution statutes of
15 Oklahoma, who are otherwise not entitled to receive benefits under
16 other provisions of this section, such heirs-at-law shall receive
17 compensation for their pecuniary loss not to exceed an aggregate of
18 Five Thousand Dollars (\$5,000.00).

19 10. In the event that no benefits under other provisions of
20 this section are paid to the dependents or the heirs-at-law of the
21 deceased, an amount not to exceed Five Thousand Dollars (\$5,000.00)
22 shall be paid for funeral expenses.

23 11. (a) For deaths occurring before January 1, 1995, if there
24 is a surviving spouse and surviving children entitled to receive
25 death benefits herein, such survivors shall be entitled to an
26 immediate lump-sum payment of Ten Thousand Dollars (\$10,000.00) to
27 the spouse and Two Thousand Five Hundred Dollars (\$2,500.00) to each
28 surviving child not to exceed two children. For deaths occurring
29 after December 31, 1994, if there is a surviving spouse and
30 surviving children entitled to receive death benefits herein, such
31 survivors shall be entitled to an immediate lump-sum payment of
32 Twenty Thousand Dollars (\$20,000.00) to the spouse and Five Thousand

1 Dollars (\$5,000.00) to each surviving child not to exceed two
2 children.

3 (b) If there is no surviving spouse but there are surviving
4 children entitled to receive death benefits herein, such surviving
5 children shall be entitled to a lump-sum payment of Ten Thousand
6 Dollars (\$10,000.00) to be divided among all the children to share
7 and share alike.

8 (c) Any claim under this paragraph shall be substantiated by
9 the filing of a properly executed and authenticated proof of loss,
10 which form shall be prescribed by the Administrator, and payment of
11 such sum shall be made within fifteen (15) days after adjudication
12 of entitlement by the Court. Such sum shall not be subject to any
13 award of attorney fees in uncontested cases, except the Court shall
14 appoint a guardian ad litem to represent known and unknown minor
15 children and said guardian ad litem shall be paid a reasonable fee
16 for his services.

17 Provided, that all judgments rendered awarding lump-sum death
18 benefits, except lump-sum attorney fee awards, may, at the
19 discretion of the Court, provide that said benefits be paid in trust
20 to an interest-bearing account in a federally insured banking
21 institution in the county wherein the judgment was rendered. The
22 banking institution may make appropriate charges to the beneficiary
23 for costs of trust management. These charges shall be fixed by
24 agreement of such institution and the judge rendering the judgment.
25 The judgment awarding lump-sum death benefits shall contain
26 instructions for regularly scheduled disbursements to be fixed by
27 the Court which may be modified by the Court upon a proper showing
28 of change of circumstance. The banking institution shall issue a
29 numbered receipt to the person paying the benefits into trust and
30 deliver a copy of the receipt to the Administrator. Each banking
31 institution receiving trust funds for deposit shall receive a
32 schedule of disbursements and shall monthly pay said disbursements

1 to the beneficiary as ordered by the Court. An annual accounting of
2 all such trust funds received and deposited shall be rendered by
3 each banking institution to the Court granting the judgment.

4 12. No payments on any permanent impairment order shall start
5 until payments on any pre-existing permanent impairment orders have
6 been completed.

7 13. (a) Any employee convicted of a misdemeanor or felony and
8 sentenced to a term of incarceration of at least
9 ninety (90) days in this state or in any other
10 jurisdiction shall have all benefits for temporary
11 total disability awarded by the Workers' Compensation
12 Court forfeited by order of the Court on motion of the
13 employer or the employer's insurer after confirmation
14 of the employee's incarceration. The Court also may
15 order the forfeiture of such benefits on its own
16 motion upon receipt of notice from the Director of the
17 Oklahoma Department of Corrections that the person
18 awarded the benefits is incarcerated as an inmate in a
19 facility operated by or under contract with the
20 Department. The provisions of this subparagraph shall
21 not apply to any benefits awarded to an inmate for
22 compensable injuries sustained by the inmate while in
23 the employ of a private for-profit employer or while
24 employed in private prison industries, involving a
25 for-profit employer, which deal in interstate commerce
26 or which sell products or services to the federal
27 government.

28 (b) Any employee convicted of a misdemeanor or felony and
29 sentenced to a term of incarceration of at least
30 ninety (90) days in this state shall have all benefits
31 for permanent total disability or temporary partial
32 disability awarded by the Workers' Compensation Court

1 and paid during the period of incarceration deposited
2 to the credit of an account established pursuant to
3 Section 549 of Title 57 of the Oklahoma Statutes for
4 distribution in full to the Department of Corrections
5 for costs of incarceration. The State Board of
6 Corrections shall have the power to collect workers'
7 compensation benefits on behalf of the prisoner as
8 provided in this subparagraph and to distribute the
9 benefits as provided by law.

10 SECTION 5. AMENDATORY 85 O.S. 1991, Section 63.1, as
11 last amended by Section 13, Chapter 361, O.S.L. 1997 (85 O.S. Supp.
12 1998, Section 63.1), is amended to read as follows:

13 Section 63.1 A. In addition to any other penalty prescribed by
14 law, if the Commissioner of Labor or a designee finds that ~~any~~ an
15 employer ~~who fails~~ has failed to secure compensation as required by
16 Section 61 of this title, the employer shall be ~~liable~~ subject to
17 the following:

18 1. If the employer has five (5) or fewer full-time employees,
19 fewer than ten (10) part-time employees, and fewer than twelve (12)
20 total employees, for a first offense the employer shall be given a
21 warning for failure to secure compensation. This warning shall not
22 require the employer to appear in an individual proceeding, but does
23 require the employer to provide proof of insurance to the
24 Commissioner within thirty (30) days after receipt of the warning.
25 For a second offense occurring more than thirty (30) days after the
26 receipt of the warning the employer shall be subject to a civil
27 penalty in an individual proceeding of not more than Fifty Dollars
28 (\$50.00) per employee not to exceed Five Hundred Dollars (\$500.00).
29 For a third or subsequent offense, the employer shall be subject to
30 a civil penalty in an individual proceeding of not more than Two
31 Hundred Fifty Dollars (\$250.00) per employee; and
32

1 2. If the employer is not subject to paragraph 1 of this
2 subsection, for a first offense the employer shall be liable in an
3 individual proceeding for a civil penalty, to be assessed by the
4 Commissioner of Labor or designee, of not more than Two Hundred
5 Fifty Dollars (\$250.00) per employee ~~for a first offense,~~ unless the
6 employer secures workers' compensation insurance within thirty (30)
7 days after receiving notice of the violation. If the employer
8 secures workers' compensation insurance within thirty (30) days
9 after receiving notice of the violation, the employer shall be
10 liable for a civil penalty of not more than Seventy-five Dollars
11 (\$75.00) per employee. An employer shall be liable for a civil
12 penalty of not more than One Thousand Dollars (\$1,000.00) per
13 employee for a second or subsequent offense. ~~Provided;~~ provided,
14 the maximum civil penalty shall not exceed Ten Thousand Dollars
15 (\$10,000.00) for all related series of violations.

16 B. All civil penalties collected pursuant to this section shall
17 be deposited in the "Workers' Compensation Enforcement Revolving
18 Fund" created by this section and shall be used to enforce the
19 provisions of the Workers' Compensation Act.

20 ~~B.~~ C. After an employer is cited for two offenses of failing to
21 obtain workers' compensation insurance and fails to obtain coverage
22 within thirty (30) days of the second citation, the Commissioner of
23 Labor shall issue cease and desist orders, in accordance with the
24 Department of Labor administrative rules and procedures, against an
25 employer until the violating employer shall obtain workers'
26 compensation insurance for its employees. The Commissioner of Labor
27 shall have the authority to require the cessation of activities of
28 an employer whose employees are not covered by workers' compensation
29 insurance until the violating employer shall obtain workers'
30 compensation insurance for its employees; provided that an employer
31 who has made application for workers' compensation coverage with
32 either the State Insurance Fund or a private insurance carrier, and

1 who, through no fault of the employer, has not received notice that
2 such coverage has commenced, shall not be made to cease operations,
3 as provided for in this section, until a determination has been made
4 concerning his application for workers' compensation coverage. Any
5 order to cease and desist issued by the Commissioner may be enforced
6 in district court. The district court may issue the Commissioner an
7 injunction without bond, for the purposes of enforcing this section.

8 ~~C.~~ D. The Commissioner of Labor or designee shall assess and
9 collect any civil penalty incurred under subsection A of this
10 section and, in the Commissioner's discretion, may remit, mitigate
11 or negotiate said penalty. In determining the amount of the penalty
12 to be assessed, or the amount agreed upon in any negotiation,
13 consideration shall be given to the appropriateness of such penalty
14 in light of the life of the business of the employer charged, the
15 gravity of the violation, and the extent to which the employer
16 charged has complied with the provisions of Section 61 of this title
17 or has otherwise attempted to remedy the consequences of the said
18 violation. Individual proceedings shall be conducted pursuant to
19 the provisions of Section 63.2 of this title.

20 ~~D.~~ E. There is hereby created in the State Treasury a revolving
21 fund for the Department of Labor to be designated the "Workers'
22 Compensation Enforcement Revolving Fund". The fund shall be a
23 continuing fund, not subject to fiscal year limitations, and shall
24 consist of all monies collected by the Department pursuant to the
25 provisions of this section. Expenditures from said fund shall be
26 made upon warrants issued by the State Treasurer against claims
27 filed as prescribed by law with the Director of State Finance for
28 approval and payment.

29 ~~E.~~ F. No hospital or health provider shall charge more for a
30 workers' compensation claim than for the same service not involving
31 workers' compensation.

32

1 SECTION 6. AMENDATORY 85 O.S. 1991, Section 173, as last
2 amended by Section 16, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1998,
3 Section 173), is amended to read as follows:

4 Section 173. A. There is hereby created, for the purposes
5 herein declared, a Special Indemnity Fund ~~to be derived from the~~
6 ~~following sources:~~.

7 ~~A.~~ B. Each mutual or interinsurance association, stock company,
8 the State Insurance Fund, or other insurance carrier writing
9 workers' compensation insurance in this state, and each
10 self-insurer, shall pay to the Oklahoma Tax Commission a sum equal
11 to five percent (5%) of the total compensation for permanent total
12 disability or permanent partial disability paid out or payable
13 during each quarter-year period of the calendar year. Such payments
14 to the Tax Commission shall be made not later than the fifteenth day
15 of the month following the close of the quarter-year in which
16 compensation is paid or becomes payable. Contributions made by
17 insurance carriers and the State Insurance Fund, under the
18 provisions of the Workers' Compensation Act, to the Special
19 Indemnity Fund shall be considered losses for the purpose of
20 computing workers' compensation rates.

21 ~~B.~~ C. The Special Indemnity Fund is hereby authorized to
22 receive and expend monies appropriated by the Legislature.

23 ~~C.~~ D. Where an award has been made by the Court, or any
24 payments in lieu thereof, for compensable injury for a permanent
25 total disability or a permanent partial disability, the employer or
26 insurance carrier shall pay to such employee ninety-five percent
27 (95%) of the same and the remaining five percent (5%) thereof shall
28 be paid by such employer to the ~~Oklahoma~~ Tax Commission. Such
29 payments to the Tax Commission shall be made not later than the
30 fifteenth day of the month following the close of each quarter of
31 the calendar year in which compensation is paid or became payable.

32

1 ~~D.~~ E. The payments provided for in the foregoing subsections A
2 B and ~~€ D~~, which aggregate ten percent (10%) of the awards for
3 permanent disability, shall, in the event the award becomes final,
4 accrue and be payable regardless of whether or not the award made to
5 a claimant is paid.

6 ~~E.~~ F. In making and entering awards for compensation for
7 permanent total disability or permanent partial disability, the
8 Court shall determine and fix the amounts that shall be paid to the
9 Tax Commission under subsections A B and ~~€ D~~ of this section. The
10 total amount of the deduction so determined and fixed shall have the
11 same force and effect as an award of the Court for compensation and
12 all provisions relating to the collection of awards of the Court
13 shall apply to such judgments.

14 ~~F.~~ G. It shall be the duty of the ~~Oklahoma~~ Tax Commission to
15 collect the payments provided for herein. The ~~Oklahoma~~ Tax
16 Commission is hereby authorized to bring an action for the recovery
17 of any delinquent or unpaid payments required in this section. The
18 ~~Oklahoma~~ Tax Commission may also enforce payments by proceeding in
19 accordance with the provisions of Section 42 of this title.

20 ~~G.~~ H. The ~~Oklahoma~~ Tax Commission shall on or before the first
21 day of April of each year find and determine the amount of money
22 held as of March 1 of that year by the State Treasurer for the
23 benefit of the Special Indemnity Fund and shall on or before the
24 first day of October of each year find and determine the amount of
25 money held as of September 1 of that year by the State Treasurer for
26 the benefit of the Special Indemnity Fund. Promptly after making
27 each such determination, the ~~Oklahoma~~ Tax Commission shall advise
28 the State Insurance Fund and the Administrator in writing of its
29 findings and determination in the foregoing particulars.

30 ~~H.~~ I. Eighty percent (80%) of all sums held by the State
31 Treasurer to the credit of the Special Indemnity Fund may by order
32 of the Commissioner of the State Insurance Fund, with the approval

1 of the Board of Managers of the State Insurance Fund, be invested in
2 or loaned on the pledge of any of the securities in which a state
3 bank may invest the monies deposited therein by the State Treasurer;
4 or may be deposited in state or national banks or trust companies
5 upon insured time deposit bearing interest at a rate no less than
6 currently being paid upon insured savings accounts in said
7 institutions. "Insured" as used in this section shall mean
8 insurance as provided by an agency of the federal government. All
9 such securities or evidence of indebtedness shall be placed in the
10 hands of the State Treasurer, who shall be the custodian thereof,
11 who shall collect the principal and interest when due, and pay the
12 same into the Special Indemnity Fund. The State Treasurer shall pay
13 by vouchers drawn on the Special Indemnity Fund for the making of
14 such investments, when signed by the Commissioner and approved by
15 the Board of Managers of the State Insurance Fund, upon delivery of
16 such securities or evidence of indebtedness to him. The
17 Commissioner may, upon like approval of the Board of Managers of the
18 State Insurance Fund, sell any of such securities, the proceeds
19 thereof to be paid over to the State Treasurer for the Special
20 Indemnity Fund.

21 ~~I.~~ J. The refund provisions of Sections 227 through 229 of
22 Title 68 of the Oklahoma Statutes shall be applicable to any
23 payments made to the Special Indemnity Fund. Refunds shall be paid
24 from and out of the Special Indemnity Fund.

25 ~~J.~~ K. Until January 1, 1994, the Oklahoma Tax Commission shall
26 pay, monthly, to the State Treasurer to the credit of the Special
27 Indemnity Fund all monies collected under the provisions of this
28 section. Beginning January 1, 1994, the Oklahoma Tax Commission
29 shall pay, monthly, to the State Treasurer all monies collected
30 under the provisions of this section to be credited as follows:
31 ninety percent (90%) to the Special Indemnity Fund, five percent
32 (5%) to the Oklahoma Department of Labor, two and one-half percent

1 (2.5%) to the Office of the Attorney General and two and one-half
2 percent (2.5%) to the State Department of Vocational and Technical
3 Education. Monies received by the Department of Labor under this
4 section shall be used for safety consultation and the regulation of
5 the safety of public employees through the Occupational Safety and
6 Health Act of 1970. Monies received by the Office of the Attorney
7 General shall be deposited to the credit of the Attorney General's
8 Workers' Compensation Fraud Unit Revolving Fund created pursuant to
9 Section 19.2 of Title 74 of the Oklahoma Statutes. Monies received
10 by the State Department of Vocational and Technical Education shall
11 supplement other funding to the Department for purposes of
12 implementing the provisions of subsection B of Section 414 of Title
13 40 of the Oklahoma Statutes. The State Treasurer shall pay out of
14 the Special Indemnity Fund only upon the order and direction of the
15 Court of this state acting under the provisions hereof.

16 SECTION 7. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 418.1 of Title 40, unless there
18 is created a duplication in numbering, reads as follows:

19 A. There is hereby created in the State Treasury a revolving
20 fund for the Department of Labor to be designated the "Department of
21 Labor Safety Consultation and Regulation Revolving Fund". The fund
22 shall be a continuing fund, not subject to fiscal year limitations,
23 and shall consist of all monies designated by law for deposit in the
24 fund. All monies accruing to the credit of the fund are hereby
25 appropriated and may be budgeted and expended as provided in
26 subsection B of this section. Expenditures from the fund shall be
27 made upon warrants issued by the State Treasurer against claims
28 filed as prescribed by law with the Director of State Finance for
29 approval and payment.

30 B. Monies accruing to the credit of the fund may be used for
31 the following:
32

1 1. The direct cost of providing consultation regarding safety
2 to employers and their employees. For the purpose of this
3 paragraph, "direct cost" means the actual cost of the following:

- 4 a. salary and benefits for safety consultants for time
5 actually engaged in providing consultation regarding
6 safety to employers and their employees,
- 7 b. travel actually and necessarily incurred when
8 providing consultation regarding safety to employers
9 and their employees,
- 10 c. training of safety consultants actually employed in
11 providing consultation regarding safety to employers
12 and their employees,
- 13 d. equipment actually and necessarily used in providing
14 consultation regarding safety to employers and their
15 employees, and
- 16 e. supplies actually and necessarily used in providing
17 consultation regarding safety to employers and their
18 employees;

19 2. The direct cost of regulation of the safety of public
20 employees through the Occupational Safety and Health Act of 1970.
21 For the purpose of this paragraph, "direct cost" means the actual
22 cost of the following:

- 23 a. salary and benefits for safety consultants and
24 inspectors for time actually engaged in providing
25 consultation, inspection, and regulation regarding
26 safety to public employers and their employees,
- 27 b. travel actually and necessarily incurred when
28 providing consultation, inspection, and regulation
29 regarding safety to public employers and their
30 employees,

- c. training of safety consultants and inspectors actually employed in providing consultation regarding safety to public employers and their employees,
- d. equipment actually and necessarily used in providing consultation, inspection, and regulation regarding safety to public employers and their employees, and
- e. supplies actually and necessarily used in providing consultation, inspection, and regulation regarding safety to public employers and their employees; and

3. The actual cost of providing matching funds pursuant to any federal program which provides funding for programs involving consultation, inspection, and regulation regarding safety for employers and their employees. In addition to any restrictions placed on state or federal funds by the federal program, matching funds from the Department of Labor Safety Consultation and Regulation Revolving Fund shall be subject to the limitations and restrictions of this section.

C. No money deposited in the Department of Labor Safety Consultation and Regulation Revolving Fund shall ever be used for any purpose not specifically stated in subsection B of this section.

SECTION 8. AMENDATORY 82 O.S. 1991, Section 1501-502, as amended by Section 219, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1998, Section 3-3-105), is amended to read as follows:

Section 3-3-105. A. In addition to other powers and duties provided by law, a conservation district and the directors thereof shall have the power and duty to:

- 1. Obtain such information as may be necessary to the proper carrying out of duties and powers prescribed in the Conservation District Act, by making surveys and investigations relating to the conservation of renewable natural resources, and the preventive and control measures and works of improvement needed; provided, however,

1 that such surveys and investigations shall not be undertaken except
2 in cooperation with the State Conservation Commission or with the
3 government of this state or any of its agencies, or with the United
4 States or any of its agencies;

5 2. Conduct operations for the conservation of renewable natural
6 resources within the district on lands owned or controlled by this
7 state or any of its agencies, with the cooperation of the agency
8 administering and having jurisdiction thereof, and on any other
9 lands within the district upon obtaining the consent of the owner of
10 such lands or the necessary rights or interests in such lands, in
11 order to demonstrate by example the means, methods, and measures by
12 which the conservation of renewable natural resources may be carried
13 out;

14 3. Carry out preventive and control measures and works of
15 improvement for the conservation of renewable natural resources
16 within the district including, but not limited to, engineering
17 operations, methods of cultivation, the growing of vegetation and
18 changes in use of land on lands owned or controlled by this state or
19 any of its agencies, with the cooperation of the agency
20 administering and having jurisdiction thereof, and on any other
21 lands within the district upon obtaining the consent of the owner of
22 such lands or the necessary rights or interests in such lands;

23 4. Cooperate or enter into agreements with, and, within the
24 limits of appropriations duly made available to it by law, to
25 furnish financial or other aid to any agency, governmental or
26 otherwise, or any owner or occupier of lands within the district,
27 subject to such conditions as the directors may deem necessary to
28 advance the purposes of the Conservation District Act;

29 5. Obtain options upon and to acquire, by purchase, exchange,
30 lease, gift, grant, bequest, devise or otherwise, any property, real
31 or personal, or rights or interests therein; to maintain, administer
32 and improve any properties acquired; and to:

- 1 a. receive income from such properties and to expend such
2 income in carrying out the purposes and provisions of
3 the Conservation District Act, and
- 4 b. sell, lease or otherwise dispose of any of its
5 property or interests therein, all in furtherance of
6 the purposes and provisions of the Conservation
7 District Act; provided that in all cases when lands or
8 interests therein are deemed by the directors to be
9 necessary for upstream flood control purposes to carry
10 out the purposes of the Conservation District Act and
11 which cannot otherwise be acquired, the district shall
12 be vested with the power of eminent domain and may
13 condemn and acquire such lands as provided by the laws
14 of this state governing the acquisition of lands by
15 railroad corporations;

16 6. Make available, on such terms as it shall prescribe, to
17 landowners and occupiers within the district, agricultural and
18 engineering machinery and equipment, fertilizer, seeds and
19 seedlings, and such other material or equipment as will assist such
20 landowners and occupiers to carry on operations upon their lands for
21 the conservation of renewable natural resources;

22 7. Construct, improve, repair, operate and maintain such
23 structures as may be necessary or convenient for the performance of
24 any of the operations or activities authorized in the Conservation
25 District Act;

26 8. Develop resource conservation programs and annual work plans
27 as provided in the Conservation District Act;

28 9. Acquire by purchase, lease or otherwise, and to administer
29 any project or program concerned with the conservation of renewable
30 natural resources located within its boundaries undertaken by any
31 federal, state or other public agency; and to:

- a. accept donations, gifts and contributions, in money, services, materials or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from any other source, and
- b. use or expend such moneys, services, materials or other contributions in carrying out the purposes of the Conservation District Act, and
- c. enter into contracts and negotiate with any agency of the United States or the State of Oklahoma in any plan related to the conservation of renewable natural resources;

10. Sue and be sued in the name of the district; and to:

- a. have a seal, which seal shall be judicially noticed,
- b. make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and
- c. make, and from time to time amend and repeal, rules and regulations not inconsistent with the Conservation District Act to carry into effect its purposes and powers; and

11. Carry workers' compensation insurance, ~~in its discretion,~~ on any or all its employees, regardless of the nature of the work in which ~~such~~ the employee or employees are engaged, ~~such.~~ The insurance ~~to be carried with the State Insurance Fund, and to~~ shall be paid for by each district out of the funds of ~~such~~ the district.

B. As a condition to the extending of any benefits under the Conservation District Act to or the performance of work upon any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials or otherwise to any operations conferring such benefits and may require land occupiers to enter into and perform such

1 agreements or covenants as to the use of such lands as may be
2 consistent with the purposes of the Conservation District Act.

3 C. No provisions with respect to the acquisition, operation or
4 disposition of property by other public bodies shall be applicable
5 to a district organized hereunder unless the Legislature shall
6 specifically so state.

7 D. Soil and water conservation district directors have the
8 authority to accept appointment to serve as members of local,
9 municipal, county, regional and state planning agencies, boards,
10 commissions and authorities and districts may participate in the
11 funding thereof and performance of works and projects thereunder.

12 SECTION 9. REPEALER 47 O.S. 1991, Sections 2-201 and
13 376, are hereby repealed.

14 SECTION 10. This act shall become effective July 1, 1999.

15 SECTION 11. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

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