

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 680

By: Henry

AS INTRODUCED

An Act relating to the Department of Labor; amending 85 O.S. 1991, Section 173, as last amended by Section 16, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1998, Section 173), which relates to the Special Indemnity Fund; increasing allocation of certain funds for credit to the Special Indemnity Fund; directing deposit of funds allocated to the Department of Labor in revolving fund; creating Department of Labor Safety Consultation and Regulation Revolving Fund; providing for continuing appropriation; providing for deposit and expenditure of funds; limiting use of certain monies; providing for codification; providing an effective date; and declaring an emergency.

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

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

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

~~A.~~ B. Each mutual or interinsurance association, stock company, the State Insurance Fund, or other insurance carrier writing workers' compensation insurance in this state, and each self-insurer, shall pay to the Oklahoma Tax Commission a sum equal to five percent (5%) of the total compensation for permanent total disability or permanent partial disability paid out or payable during each quarter-year period of the calendar year. Such payments to the Tax Commission shall be made not later than the fifteenth day of the month following the close of the quarter-year in which compensation is paid or becomes payable. Contributions made by

insurance carriers and the State Insurance Fund, under the provisions of the Workers' Compensation Act, to the Special Indemnity Fund shall be considered losses for the purpose of computing workers' compensation rates.

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

~~C.~~ D. Where an award has been made by the Court, or any payments in lieu thereof, for compensable injury for a permanent total disability or a permanent partial disability, the employer or insurance carrier shall pay to such employee ninety-five percent (95%) of the same and the remaining five percent (5%) thereof shall be paid by such employer to the ~~Oklahoma~~ Tax Commission. 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 compensation is paid or became payable.

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

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

~~F.~~ G. 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.

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

~~H.~~ I. Eighty percent (80%) of all sums held by the State Treasurer to the credit of the Special Indemnity Fund may by order of the Commissioner of the State Insurance Fund, with the approval of the Board of Managers of the State Insurance Fund, be invested in or loaned on the pledge of any of the securities in which a state bank may invest the monies deposited therein by the State Treasurer; or may be deposited in state or national banks or trust companies upon insured time deposit bearing interest at a rate no less than currently being paid upon insured savings accounts in said institutions. "Insured" as used in this section shall mean insurance as provided by an agency of the federal government. All such securities or evidence of indebtedness shall be placed in the hands of the State Treasurer, who shall be the custodian thereof, who shall collect the principal and interest when due, and pay the same into the Special Indemnity Fund. The State Treasurer shall pay by vouchers drawn on the Special Indemnity Fund for the making of such investments, when signed by the Commissioner and approved by the Board of Managers of the State Insurance Fund, upon delivery of such securities or evidence of indebtedness to him. The Commissioner may, upon like approval of the Board of Managers of the

State Insurance Fund, sell any of such securities, the proceeds thereof to be paid over to the State Treasurer for the Special Indemnity Fund.

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

~~J.~~ K. Until January 1, 1994, the ~~Oklahoma~~ Tax Commission shall pay, monthly, to the State Treasurer to the credit of the Special Indemnity Fund all monies collected under the provisions of this section. Beginning January 1, 1994, the ~~Oklahoma~~ Tax Commission shall pay, monthly, to the State Treasurer all monies collected under the provisions of this section to be credited as follows: ~~ninety percent (90%)~~ ninety-two and one-half percent (92.5%) to the Special Indemnity Fund, ~~five percent (5%)~~ two and one-half percent (2.5%) to the Oklahoma Department of Labor, two and one-half percent (2.5%) to the Office of the Attorney General and two and one-half percent (2.5%) to the State Department of Vocational and Technical Education. Monies ~~received by~~ allocated to the Department of Labor under this section shall be ~~used for safety consultation and the regulation of the safety of public employees through the Occupational Safety and Health Act of 1970~~ deposited to the credit of the "Department of Labor Safety Consultation and Regulation Revolving Fund". Monies received by the Office of the Attorney General shall be deposited to the credit of the Attorney General's Workers' Compensation Fraud Unit Revolving Fund created pursuant to Section 19.2 of Title 74 of the Oklahoma Statutes. Monies received by the State Department of Vocational and Technical Education shall supplement other funding to the Department for purposes of implementing the provisions of subsection B of Section 414 of Title 40 of the Oklahoma Statutes. The State Treasurer shall pay out of

the Special Indemnity Fund only upon the order and direction of the Court of this state acting under the provisions hereof.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 418.1 of Title 40, unless there is created a duplication in numbering, reads as follows:

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

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

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

- a. salary and benefits for safety consultants for time actually engaged in providing consultation regarding safety to employers and their employees,
- b. travel actually and necessarily incurred when providing consultation regarding safety to employers and their employees,
- c. training of safety consultants actually employed in providing consultation regarding safety to employers and their employees,

- d. equipment actually and necessarily used in providing consultation regarding safety to employers and their employees, and
- e. supplies actually and necessarily used in providing consultation regarding safety to employers and their employees;

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

- a. salary and benefits for safety consultants and inspectors for time actually engaged in providing consultation, inspection, and regulation regarding safety to public employers and their employees,
- b. travel actually and necessarily incurred when providing consultation, inspection, and regulation regarding safety to public employers and their 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 3. This act shall become effective July 1, 1999.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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