

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1521

By: Standridge

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5
6 AS INTRODUCED

7 An Act relating to the Workers' Compensation Fraud
8 Investigation Unit; amending Sections 15, Chapter
9 208, O.S.L. 2013 and 31, Chapter 208, O.S.L. 2013, as
10 amended by Section 3, Chapter 344, O.S.L. 2015 (85A
11 O.S. Supp. 2015, Sections 15 and 31), which relate to
12 the Fraud Investigation Unit funding report and the
Multiple Injury Trust Fund; modifying requirements
for certain report; requiring State Treasurer to
transfer certain funds to the Office of the Attorney
General; directing certain deposits; and providing an
effective date.

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

16 SECTION 1. AMENDATORY Section 15, Chapter 208, O.S.L.
17 2013 (85A O.S. Supp. 2015, Section 15), is amended to read as
18 follows:

19 Section 15. ~~A. 1.~~ One month before the beginning of any
20 fiscal year, the Attorney General shall ~~provide~~ certify to the
21 ~~Commission~~ State Treasurer the ~~estimated~~ funding need of the
22 Workers' Compensation Fraud Investigation Unit of the Office of
23 Attorney General for the ensuing fiscal year.
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1 ~~2.~~ The funding report shall itemize each position to be
2 utilized in the Unit ~~and funded by the Commission~~ and make estimates
3 of all other budgetary line items necessary to provide support to
4 the Unit.

5 ~~3.~~ The report shall deduct unexpended and unencumbered balances
6 of the Unit from the previous fiscal year. Only the current need,
7 excluding unexpended and unencumbered funds, shall be certified for
8 a fund transfer authorized in this section.

9 ~~B. On or before the first day of each fiscal year, the
10 Commission shall certify to the State Treasurer that funds are
11 available for transfer, on which certification the State Treasurer
12 shall transfer those funds from the Workers' Compensation Fund of
13 the Commission to the fund account used for the maintenance,
14 operation, and support of the Unit.~~

15 SECTION 2. AMENDATORY Section 31, Chapter 208, O.S.L.
16 2013, as amended by Section 3, Chapter 344, O.S.L. 2015 (85A O.S.
17 Supp. 2015, Section 31), is amended to read as follows:

18 Section 31. A. The Multiple Injury Trust Fund shall be derived
19 from the following additional sources:

20 1. As soon as practicable after January 1 of each year, the
21 commissioners of the Oklahoma Workers' Compensation Commission shall
22 establish an assessment rate applicable to each mutual or
23 interinsurance association, stock company, CompSource Oklahoma, or
24 other insurance carrier writing workers' compensation insurance in

1 this state, each employer carrying its own risk, and each group
2 self-insurance association, for amounts for purposes of computing
3 the assessment authorized by this section necessary to pay the
4 annual obligations of the Multiple Injury Trust Fund determined on
5 or before December 31 of each year by the MITF Director, provided
6 for in subsection P of this section, to be outstanding for the next
7 calendar year, and to pay the allocations provided for in subsection
8 I of this section. The rate shall be equal for all parties required
9 to pay the assessment. If CompSource begins operating as a mutual
10 insurance company, the Board of Directors for CompSource Mutual
11 Insurance Company shall have the power to disapprove the rate
12 established by the MITF Director until the Multiple Injury Trust
13 Fund repays in full the amount due on any loan from CompSource
14 Mutual Insurance Company or its predecessor CompSource Oklahoma. If
15 the MITF Director and CompSource have not agreed on the assessment
16 rate within thirty (30) days, the Commission shall set an assessment
17 rate sufficient to cover all foreseeable obligations of the Multiple
18 Injury Trust Fund, including interest and principal owed by the Fund
19 on any loan. The rate in effect on the effective date of this act
20 shall remain effective through June 30, 2014;

21 2. The Oklahoma Tax Commission shall assess and collect from
22 any uninsured employer a temporary assessment at the rate of five
23 percent (5%) of the total compensation for permanent total
24 disability awards, permanent partial disability awards, and death

1 benefits paid out during each quarter of the calendar year by the
2 employers;

3 3. The assessments shall be paid to the Tax Commission.

4 Insurance carriers, self-insurers, group self-insurance associations
5 and CompSource Oklahoma shall pay the assessment in four equal
6 installments not later than the fifteenth day of the month following
7 the close of each quarter of the calendar year of the assessment.

8 Assessments shall be determined based upon gross direct written
9 premiums, normal premiums or actual paid losses of the paying party,
10 as applicable, during the calendar quarter for which the assessment
11 is due. Uninsured employers shall pay the assessment not later than
12 the fifteenth day of the month following the close of each quarter
13 of the calendar year of the assessment. For purposes of this
14 section, "uninsured employer" means an employer required by law to
15 carry workers' compensation insurance but who has failed or
16 neglected to do so.

17 a. The assessment authorized in this section shall be
18 determined using a rate equal to the proportion that
19 the sum of the outstanding obligations of the Multiple
20 Injury Trust Fund as determined pursuant to paragraph
21 1 of this subsection and the allocations provided for
22 in subsection I of this section bear to the combined
23 gross direct written premiums of all such insurers;
24 all actual paid losses of all individual self-

1 insureds; and the normal premium of all group self-
2 insurance associations, for the year period from
3 January 1 to December 31 preceding the assessment.

4 b. For purposes of this subsection:

5 (1) "actual paid losses" means all medical and
6 indemnity payments, including temporary
7 disability, permanent disability, and death
8 benefits, and excluding loss adjustment expenses
9 and reserves, and

10 (2) "normal premium" means a standard premium less
11 any discounts;

12 4. By April 15 of each year, the Insurance Commissioner, the
13 MITF Director and each individual and group self-insured shall
14 provide the Commission with such information as the Commission may
15 determine is necessary to effectuate the purposes of this section;

16 5. Each mutual or interinsurance association, stock company,
17 CompSource Oklahoma, or other insurance carrier writing workers'
18 compensation insurance in this state, and each employer carrying its
19 own risk, including each group self-insurance association, shall be
20 notified by the Commission in writing of the rate for the assessment
21 on or before May 1 of each year in which a rate is determined. The
22 rate determined by the Commission shall be in effect for four
23 calendar quarters beginning July 1 following determination by the
24 Commission; and

1 6. a. No mutual or interinsurance association, stock
2 company, CompSource Oklahoma, or other insurance
3 carrier writing workers' compensation insurance in
4 this state may be assessed in any year an amount
5 greater than six percent (6%) of the gross direct
6 written premiums of that insurer.

7 b. No employer carrying its own risk may be assessed in
8 any year an amount greater than six percent (6%) of
9 the total actual paid losses of that individual self-
10 insured.

11 c. No group self-insurance association may be assessed in
12 any year an amount greater than six percent (6%) of
13 the normal premium of that group self-insurance
14 association.

15 d. If the maximum assessment does not provide in any one
16 year an amount sufficient to make all necessary
17 payments for obligations of the Multiple Injury Trust
18 Fund and for the allocations provided for in
19 subsection I of this section, the unpaid portion shall
20 be paid as soon thereafter as funds become available.

21 B. The Multiple Injury Trust Fund is hereby authorized to
22 receive and expend monies appropriated by the Legislature.

23 C. It shall be the duty of the Tax Commission to collect the
24 payments provided for in this act. The Tax Commission is hereby

1 authorized to bring an action for the recovery of any delinquent or
2 unpaid payments required in this section.

3 D. Any mutual or interinsurance association, stock company, or
4 other insurance company, which is subject to regulation by the
5 Insurance Commissioner, or CompSource Oklahoma, failing to make
6 payments required in this act promptly and correctly, and failing to
7 report payment of the same to the Insurance Commission within ten
8 (10) days of payment shall be subject to administrative penalties as
9 allowed by law, including but not limited to a fine in the amount of
10 Five Hundred Dollars (\$500.00) or an amount equal to one percent
11 (1%) of the unpaid amount, whichever is greater, to be paid to the
12 Insurance Commissioner.

13 E. Any employer carrying its own risk, or group self-insurance
14 association failing to make payments required in this act promptly
15 and correctly, and failing to report payment of the same to the
16 Commission within ten (10) days of payment shall be subject to
17 administrative penalties as allowed by law, including but not
18 limited to a fine in the amount of Five Hundred Dollars (\$500.00) or
19 an amount equal to one percent (1%) of the unpaid amount, whichever
20 is greater, to be paid to the Commission.

21 F. 1. On or before the first day of April of each year, the
22 State Treasurer shall advise the Commission, the MITF Director and
23 the Tax Commission of the amount of money held as of March 1 of that
24 year by the State Treasurer to the credit of the Multiple Injury

1 Trust Fund. On or before the first day of November of each year,
2 the State Treasurer shall advise the Commission, the MITF Director
3 and the Tax Commission of the amount of money held as of October 1
4 of that year by the State Treasurer to the credit of the Multiple
5 Injury Trust Fund.

6 2. Until such time as the Multiple Injury Trust Fund fully
7 satisfies any loan obligation payable to CompSource Mutual Insurance
8 Company or its predecessor CompSource Oklahoma, the State Treasurer
9 shall:

- 10 a. advise the Chief Executive Officer of CompSource on or
11 before the first day of April of the money held as of
12 March 1 of that year by the State Treasurer to the
13 credit of the Multiple Injury Trust Fund, and
14 b. advise the Chief Executive Officer of CompSource on or
15 before the first day of November of the money held as
16 of October 1 of that year by the State Treasurer to
17 the credit of the Multiple Injury Trust Fund.

18 G. Eighty percent (80%) of all sums held by the State Treasurer
19 to the credit of the Multiple Injury Trust Fund may by order of the
20 MITF Director be invested in or loaned on the pledge of any of the
21 securities in which a state bank may invest the monies deposited
22 therein by the State Treasurer; or may be deposited in state or
23 national banks or trust companies upon insured time deposit bearing
24 interest at a rate no less than currently being paid upon insured

1 savings accounts in the institutions. As used in this section,
2 "insured" means insurance as provided by an agency of the federal
3 government. All such securities or evidence of indebtedness shall
4 be placed in the hands of the State Treasurer, who shall be the
5 custodian thereof, who shall collect the principal and interest when
6 due, and pay the same into the Multiple Injury Trust Fund. The
7 State Treasurer shall pay by vouchers drawn on the Multiple Injury
8 Trust Fund for the making of such investments, when signed by the
9 MITF Director, upon delivery of such securities or evidence of
10 indebtedness to the State Treasurer. The MITF Director may sell any
11 of such securities, the proceeds thereof to be paid over to the
12 State Treasurer for the Multiple Injury Trust Fund.

13 H. The refund provisions of Sections 227 through 229 of Title
14 68 of the Oklahoma Statutes shall be applicable to any payments made
15 to the Multiple Injury Trust Fund. Refunds shall be paid from and
16 out of the Multiple Injury Trust Fund.

17 I. The Tax Commission shall pay, monthly, to the State
18 Treasurer to the credit of the Multiple Injury Trust Fund all monies
19 collected pursuant to the provisions of this section. The State
20 Treasurer shall transfer funds from the Multiple Injury Trust Fund
21 to the Office of the Attorney General in the amount certified
22 pursuant to Section 15 of this title, which shall be deposited to
23 the credit of the Attorney General's Workers' Compensation Fraud
24 Unit Revolving Fund created pursuant to Section 19.2 of Title 74 of

1 the Oklahoma Statutes. The State Treasurer shall further pay out of
2 the Multiple Injury Trust Fund only upon the order and direction of
3 the Workers' Compensation Commission acting under the provisions
4 hereof.

5 J. The Commission shall promulgate rules as the Commission
6 deems necessary to effectuate the provisions of this section.

7 K. The Insurance Commissioner shall promulgate rules relating
8 to insurers as defined in Title 36 of the Oklahoma Statutes, as the
9 Insurance Commissioner deems necessary to effectuate the provisions
10 of this section.

11 L. The MITF Director shall have authority to fulfill all
12 payment obligations of the Multiple Injury Trust Fund.

13 M. The Multiple Injury Trust Fund may enter into an agreement
14 with any reinsurer licensed to sell reinsurance by the Insurance
15 Commissioner pursuant to a competitive process administered by the
16 Director of Central Purchasing in the Office of Management and
17 Enterprise Services.

18 N. Any dividend, rebate, or other distribution, payable by
19 CompSource Oklahoma or any other workers' compensation insurance
20 carrier, to a state agency policyholder shall be paid to the State
21 Treasurer, and shall be credited as follows:

22 1. In the event of failure of the Multiple Injury Trust Fund to
23 meet all lawful obligations, the monies shall be credited to the
24 Multiple Injury Trust Fund and shall be used by the Multiple Injury

1 Trust Fund to meet all lawful obligations of the Multiple Injury
2 Trust Fund; and

3 2. Otherwise, all future dividends made by CompSource Oklahoma
4 or any workers' compensation insurance carrier, on behalf of state
5 agencies, shall be deposited to the credit of the General Revenue
6 Fund of the State Treasury.

7 O. The Workers' Compensation Commission shall be charged with
8 the administration and protection of the Multiple Injury Trust Fund.

9 P. The person serving as the Administrator of the Multiple
10 Injury Trust Fund on the date of passage and approval of this act
11 shall serve as the initial MITF Director, provided such person is
12 serving as the Administrator of the Multiple Injury Trust Fund on
13 the effective date of this act. The MITF Director shall be
14 appointed by and serve at the pleasure of the Governor.

15 Q. Any party interested shall have a right to bring a
16 proceeding in the Supreme Court to review an award of the Commission
17 affecting such Multiple Injury Trust Fund, in the same manner as is
18 provided by law with reference to other awards by the Commission.

19 R. The State Treasurer shall allocate to the Commission out of
20 the Multiple Injury Trust Fund sufficient funds for administration
21 expenses thereof in amounts to be fixed and approved by the
22 Administrator for the Multiple Injury Trust Fund, unless rejected by
23 the Commission.
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1 SECTION 3. This act shall become effective November 1, 2016.

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