

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1093

By: Howard

AS INTRODUCED

An Act relating to workers' compensation; amending Section 31, Chapter 208, O.S.L. 2013, as last amended by Section 60, Chapter 476, O.S.L. 2019 (85A O.S. Supp. 2019, Section 31), which relates to the Multiple Injury Trust Fund; deleting requirement for annual transfer of certain funds; updating statutory references; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 31, Chapter 208, O.S.L. 2013, as last amended by Section 60, Chapter 476, O.S.L. 2019 (85A O.S. Supp. 2019, Section 31), is amended to read as follows:

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

1. As soon as practicable after January 1 of each year, the commissioners of the Workers' Compensation Commission shall establish an assessment rate applicable to each mutual or interinsurance association, stock company, or other insurance carrier writing workers' compensation insurance in this state, each employer carrying its own risk, and each group self-insurance

1 association, for amounts for purposes of computing the assessment
2 authorized by this section necessary to pay the annual obligations
3 of the Multiple Injury Trust Fund determined on or before December
4 31 of each year by the Multiple Injury Trust Fund (MITF) Director,
5 provided for in subsection ~~Q~~ P of this section, to be outstanding
6 for the next calendar year. The rate shall be equal for all parties
7 required to pay the assessment. The Board of Directors for
8 CompSource Mutual Insurance Company shall have the power to
9 disapprove the rate established by the MITF Director until the
10 Multiple Injury Trust Fund repays in full the amount due on any loan
11 from CompSource Mutual Insurance Company or its predecessor
12 CompSource Oklahoma. If the MITF Director and CompSource Mutual
13 Insurance Company have not agreed on the assessment rate within
14 thirty (30) days, the Workers' Compensation Commission shall set an
15 assessment rate sufficient to cover all foreseeable obligations of
16 the Multiple Injury Trust Fund, including interest and principal
17 owed by the fund on any loan;

18 2. The assessments shall be paid to the Oklahoma Tax
19 Commission. Insurance carriers, self-insurers, and group self-
20 insurance associations shall pay the assessment in four equal
21 installments not later than the fifteenth day of the month following
22 the close of each quarter of the calendar year of the assessment.
23 Assessments shall be determined based upon gross direct written
24 premiums, normal premiums or actual paid losses of the paying party,

1 as applicable, during the calendar quarter for which the assessment
2 is due. Assessments are expressly conditioned and contingent upon
3 preservation of the rebate equal to two-thirds (2/3) of the amount
4 of the assessment actually paid pursuant to Sections 6101 and 6102
5 of Title 68 of the Oklahoma Statutes. Uninsured employers shall pay
6 the assessment not later than the fifteenth day of the month
7 following the close of each quarter of the calendar year of the
8 assessment. For purposes of this section, "uninsured employer"
9 means an employer required by law to carry workers' compensation
10 insurance but who has failed or neglected to do so.

11 a. The assessment authorized in this section shall be
12 determined using a rate equal to the proportion that
13 the sum of the outstanding obligations of the Multiple
14 Injury Trust Fund as determined pursuant to paragraph
15 1 of this subsection bears to the combined gross
16 direct written premiums of all such insurers; all
17 actual paid losses of all individual self-insureds;
18 and the normal premium of all group self-insurance
19 associations, for the year period from January 1 to
20 December 31 preceding the assessment.

21 b. For purposes of this subsection:

22 (1) "actual paid losses" means all medical and
23 indemnity payments, including temporary
24 disability, permanent disability, and death
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benefits, and excluding loss adjustment expenses
and reserves, and

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

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

4. Each mutual or interinsurance association, stock company, or
other insurance carrier writing workers' compensation insurance in
this state, and each employer carrying its own risk, including each
group self-insurance association, shall be notified by the Workers'
Compensation Commission in writing of the rate for the assessment on
or before May 1 of each year in which a rate is determined. The
rate determined by the Commission shall be in effect for four
calendar quarters beginning July 1 following determination by the
Commission. The Commission may amend its previously determined rate
on or after July 1, 2019. Parties affected by the amended rate
shall be notified by the Commission in writing as is reasonable.
The amended rate shall be in effect beginning October 1, 2019, for
the remainder of fiscal year 2020;

5. a. No mutual or interinsurance association, stock
company, or other insurance carrier writing workers'

1 compensation insurance in this state may be assessed
2 in any year an amount greater than seven percent (7%)
3 of the gross direct written premiums of that insurer.
4 The authorization for a maximum seven-percent
5 assessment shall exist for a period of three (3)
6 years, then revert back to six percent (6%)
7 thereafter.

8 b. No employer carrying its own risk may be assessed in
9 any year an amount greater than seven percent (7%) of
10 the total actual paid losses of that individual self-
11 insured. The authorization for a maximum seven-
12 percent assessment shall exist for a period of three
13 (3) years, then revert back to six percent (6%)
14 thereafter.

15 c. No group self-insurance association may be assessed in
16 any year an amount greater than seven percent (7%) of
17 the normal premium of that group self-insurance
18 association. The authorization for a maximum seven-
19 percent assessment shall exist for a period of three
20 (3) years, then revert back to six percent (6%)
21 thereafter;

22 6. The Oklahoma Tax Commission shall assess and collect from
23 any uninsured employer a temporary assessment at the rate of five
24 percent (5%) of the total compensation for permanent total
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1 disability awards, permanent partial disability awards and death
2 benefits paid out during each quarter of the calendar year by
3 employers. The assessment shall be paid in four equal installments
4 not later than the fifteenth day of the month following the close of
5 the calendar year of the assessments. For the purpose of this
6 paragraph, "uninsured employer" means an employer required by law to
7 secure its workers' compensation obligations but who has failed or
8 neglected to do so;

9 7. For injuries occurring on or after July 1, 2019, the
10 Oklahoma Tax Commission shall assess and collect from claimants a
11 temporary assessment as follows:

- 12 a. if an award has been made by the Workers' Compensation
13 Court of Existing Claims or the Workers' Compensation
14 Commission for permanent partial disability or
15 permanent total disability, or if a Compromise
16 Settlement or Joint Petition has been approved, the
17 employer or insurance carrier shall pay to such
18 employee the amount of the award less the assessment.
19 The assessment shall be paid to the Oklahoma Tax
20 Commission no later than the fifteenth day of the
21 month following the close of each quarter of the
22 calendar year in which compensation is paid or became
23 payable, and
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1 b. in making and entering awards for compensation for
2 permanent total disability or permanent partial
3 disability, three percent (3%) of the total award or
4 settlement shall be paid to the Tax Commission no
5 later than the fifteenth day of the month following
6 the close of each quarter of the calendar year in
7 which compensation is paid or became payable. The
8 total amount of the deduction so determined and fixed
9 shall have the same force and effect as an award for
10 compensation, and all provisions relating to the
11 collection of awards shall apply to such judgments;
12 and

13 8. If the revenue in any one (1) year is insufficient to make
14 all necessary payments for obligations of the Multiple Injury Trust
15 Fund and for the allocations provided for in subsection ~~7~~ I of this
16 section, the unpaid portion shall be paid as soon thereafter as
17 funds become available.

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

20 C. It shall be the duty of the Tax Commission to collect the
21 payments provided for in ~~this act~~ the Administrative Workers'
22 Compensation Act. The Tax Commission is hereby authorized to bring
23 an action for the recovery of any delinquent or unpaid payments
24 required in this section.

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

11 E. Any employer carrying its own risk, or group self-insurance
12 association failing to make payments required in ~~this act~~ the
13 Administrative Workers' Compensation Act promptly and correctly, and
14 failing to report payment of the same to the Commission within ten
15 (10) days of payment shall be subject to administrative penalties as
16 allowed by law,⁷ including but not limited to a fine in the amount of
17 Five Hundred Dollars (\$500.00) or an amount equal to one percent
18 (1%) of the unpaid amount, whichever is greater, to be paid to the
19 Commission.

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

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

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

19 G. Eighty percent (80%) of all sums held by the State Treasurer
20 to the credit of the Multiple Injury Trust Fund may by order of the
21 MITF Director be invested in or loaned on the pledge of any of the
22 securities in which a state bank may invest the monies deposited
23 therein by the State Treasurer; or may be deposited in state or
24 national banks or trust companies upon insured time deposit bearing

1 interest at a rate no less than currently being paid upon insured
2 savings accounts in the institutions. As used in this section,
3 "insured" means insurance as provided by an agency of the federal
4 government. All such securities or evidence of indebtedness shall
5 be placed in the hands of the State Treasurer, who shall be the
6 custodian thereof, who shall collect the principal and interest when
7 due, and pay the same into the Multiple Injury Trust Fund. The
8 State Treasurer shall pay by vouchers drawn on the Multiple Injury
9 Trust Fund for the making of such investments, when signed by the
10 MITF Director, upon delivery of such securities or evidence of
11 indebtedness to the State Treasurer. The MITF Director may sell any
12 of such securities, the proceeds thereof to be paid over to the
13 State Treasurer for the Multiple Injury Trust Fund.

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

18 I. ~~Beginning July 1, 2019, One Million Dollars (\$1,000,000.00)~~
19 ~~of the funds in the Multiple Injury Trust Fund shall be transferred~~
20 ~~annually on July 1 to the Oklahoma Department of Labor Revolving~~
21 ~~Fund exclusively for the operation and administration of the~~
22 ~~Oklahoma Occupational Health and Safety Standards Act and for other~~
23 ~~necessary expenses of the Department of Labor.~~

1 ~~J. Except for the monies provided for in subsection I of this~~
2 ~~section, the~~ The Tax Commission shall pay, monthly, to the State
3 Treasurer to the credit of the Multiple Injury Trust Fund all monies
4 collected pursuant to the provisions of this section. The State
5 Treasurer shall pay out of the Multiple Injury Trust Fund only upon
6 the order and direction of the Workers' Compensation Commission
7 acting under the provisions hereof.

8 ~~K.~~ J. The Commission shall promulgate rules as the Commission
9 deems necessary to effectuate the provisions of this section.

10 ~~L.~~ K. The Insurance Commissioner shall promulgate rules
11 relating to insurers as defined in Title 36 of the Oklahoma
12 Statutes, as the Insurance Commissioner deems necessary to
13 effectuate the provisions of this section.

14 ~~M.~~ L. The MITF Director shall have authority to fulfill all
15 payment obligations of the Multiple Injury Trust Fund.

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

21 ~~O.~~ N. Any dividend, rebate, or other distribution, payable by
22 CompSource Mutual Insurance Company or any other workers'
23 compensation insurance carrier, to a state agency policyholder shall
24 be paid to the State Treasurer, and shall be credited as follows:

1 1. In the event of failure of the Multiple Injury Trust Fund to
2 meet all lawful obligations, the monies shall be credited to the
3 Multiple Injury Trust Fund and shall be used by the Multiple Injury
4 Trust Fund to meet all lawful obligations of the Multiple Injury
5 Trust Fund; and

6 2. Otherwise, all future dividends made by any workers'
7 compensation insurance carrier, on behalf of state agencies, shall
8 be deposited to the credit of the General Revenue Fund of the State
9 Treasury.

10 ~~P.~~ O. The Workers' Compensation Commission shall be charged
11 with the administration and protection of the Multiple Injury Trust
12 Fund.

13 ~~Q.~~ P. The person serving as the Administrator of the Multiple
14 Injury Trust Fund on the date of passage and approval of ~~this act~~
15 the Administrative Workers' Compensation Act shall serve as the
16 initial MITF Director, provided such person is serving as the
17 Administrator of the Multiple Injury Trust Fund on the effective
18 date of ~~this act~~ the Administrative Workers' Compensation Act. The
19 MITF Director shall be appointed by and serve at the pleasure of the
20 Governor.

21 ~~R.~~ Q. Any party interested shall have a right to bring a
22 proceeding in the Supreme Court to review an award of the Workers'
23 Compensation Commission affecting such Multiple Injury Trust Fund,
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1 in the same manner as is provided by law with reference to other
2 awards by the Commission.

3 ~~S.~~ R. The State Treasurer shall allocate to the Commission out
4 of the Multiple Injury Trust Fund sufficient funds for
5 administration expenses thereof in amounts to be fixed and approved
6 by the Director for the Multiple Injury Trust Fund, unless rejected
7 by the Workers' Compensation Commission.

8 ~~T.~~ S. On or after July 1, 2019, accrued and unpaid compensation
9 from the Multiple Injury Trust Fund shall bear simple interest only
10 at the percentage rate applicable under Section 727.1 of Title 12 of
11 the Oklahoma Statutes from the day an award is made by the Workers'
12 Compensation Court of Existing Claims or the Workers' Compensation
13 Commission.

14 SECTION 2. This act shall become effective July 1, 2020.

15 SECTION 3. It being immediately necessary for the preservation
16 of the public peace, health or 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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