

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 824

Session of
1975

INTRODUCED BY CIANFRANI, JUNE 16, 1975

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 30, 1975

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
2 amended, "An act defining the liability of an employer to pay
3 damages for injuries received by an employe in the course of
4 employment; establishing an elective schedule of
5 compensation; providing procedure for the determination of
6 liability and compensation thereunder; and prescribing
7 penalties," providing for assessment of insurers and self-
8 insurers for necessary State expenses in administering the
9 act and for certain reports in connection therewith.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The act of June 2, 1915 (P.L.736, No.338), known
13 as "The Pennsylvania Workmen's Compensation Act," reenacted and
14 amended June 21, 1939 (P.L.520, No.281), is amended by adding a
15 section to read:

16 Section 446. (a) There is hereby created a special fund in
17 the State Treasury, separate and apart from all other public
18 moneys or funds of this Commonwealth, to be known as the
19 Workmen's Compensation Administration Fund. The purpose of this
20 fund shall be to finance the operating and administrative
21 expenses of the Department of Labor and Industry, including the
22 Workmen's Compensation Appeal Board and staff, but not the State

<—

1 Workmen's Insurance Fund, in the DIRECT administration of The
2 Pennsylvania Workmen's Compensation Act and The Pennsylvania
3 Occupational Disease Act including:

4 (1) wages and salaries of employes for services performed in
5 the administration of these acts;

6 (2) reasonable travel expenses for employes while engaged in
7 official business; and

8 (3) moneys expended for office rental, equipment rental,
9 supplies, equipment, repairs, services, postage, books, and
10 periodicals.

11 (b) The fund shall be maintained by annual assessments on
12 insurers and self-insurers under this act, including the State
13 Workmen's Insurance Fund. The assessment shall be four and five-
14 tenths per centum of the total compensation paid by each
15 insurer, self-insurer, and the State Workmen's Insurance Fund in
16 the calendar year preceding the year in which the assessment is
17 made. Such annual assessments shall be made only in fiscal years
18 in which such balance in the fund at the start of the fiscal
19 year is less than two hundred per centum of the cost of
20 administering the Pennsylvania Workmen's Compensation Law in the
21 previous calendar year.

22 (c) The department shall give notice to every insurer and
23 self-insurer under this act, including the State Workmen's
24 Insurance Fund, of the amount assessed against such insurer,
25 self-insurer, or the State Workmen's Insurance Fund on or before
26 June 30 of the year following the year upon which the assessment
27 is based. Payment of assessments shall be made to the department
28 within thirty days of receipt of notice of the amount assessed,
29 UNLESS THE DEPARTMENT SPECIFIES ON THE NOTICES SENT TO ALL
30 INSURERS AND SELF-INSURERS AN INSTALLMENT PLAN OF PAYMENT, IN

<—

1 WHICH CASE EACH SUCH INSURER SHALL PAY EACH INSTALLMENT ON OR
2 BEFORE THE DATE SPECIFIED THEREFORE BY THE DEPARTMENT. Provided,
3 That notice of the first annual assessment under this act shall
4 be given to every insurer and self-insurer under this act,
5 including the State Workmen's Insurance Fund, within ninety days
6 of the effective date of this amendatory act.

7 WITHIN FIFTEEN DAYS AFTER THE RECEIPT OF SUCH NOTICE, THE <—
8 INSURER OR SELF-INSURER AGAINST WHICH SUCH ASSESSMENT HAS BEEN
9 MADE MAY FILE WITH THE DEPARTMENT OBJECTIONS SETTING OUT IN
10 DETAIL THE GROUNDS UPON WHICH THE OBJECTOR REGARDS SUCH
11 ASSESSMENT TO BE EXCESSIVE, ERRONEOUS, UNLAWFUL, OR INVALID. THE
12 DEPARTMENT, AFTER NOTICE TO THE OBJECTOR, SHALL HOLD A HEARING
13 UPON SUCH OBJECTIONS. AFTER SUCH HEARING, THE DEPARTMENT SHALL
14 RECORD ITS FINDINGS ON THE OBJECTIONS AND SHALL TRANSMIT TO THE
15 OBJECTOR, BY REGISTERED OR CERTIFIED MAIL, NOTICE OF THE AMOUNT,
16 IF ANY, CHARGED AGAINST IT IN ACCORDANCE WITH SUCH FINDINGS,
17 WHICH AMOUNT OR ANY INSTALLMENT THEREOF THEN DUE, SHALL BE PAID
18 BY THE OBJECTOR WITHIN TEN DAYS AFTER RECEIPT OF NOTICE OF THE
19 FINDINGS. IF ANY PAYMENT PRESCRIBED BY THIS SUBSECTION IS NOT
20 MADE AS AFORESAID, THE SECRETARY OF THE DEPARTMENT MAY RECOMMEND
21 TO THE INSURANCE COMMISSIONER THAT APPROPRIATE ACTION BE TAKEN
22 AGAINST THE INSURER OR SELF-INSURER, INCLUDING REVOCATION OR
23 SUSPENSION OF THE COMPANY'S LICENSE TO TRANSACT BUSINESS IN THE
24 COMMONWEALTH.

25 NO SUIT OR PROCEEDING SHALL BE MAINTAINED IN ANY COURT FOR
26 THE PURPOSE OF RESTRAINING OR IN ANYWISE DELAYING THE COLLECTION
27 OR PAYMENT OF ANY ASSESSMENT MADE UNDER THIS SUBSECTION BUT
28 EVERY INSURER OR SELF-INSURER AGAINST WHICH AN ASSESSMENT IS
29 MADE SHALL PAY THE SAME AS PROVIDED IN SUBSECTION (C) OF THIS
30 SECTION. ANY INSURER OR SELF-INSURER MAKING ANY SUCH PAYMENT

1 MAY, AT ANY TIME WITHIN TWO YEARS FROM THE DATE OF PAYMENT, SUE
2 THE COMMONWEALTH IN AN ACTION AT LAW TO RECOVER THE AMOUNT PAID,
3 OR ANY PART THEREOF, UPON THE GROUND THAT THE ASSESSMENT WAS
4 EXCESSIVE, ERRONEOUS, UNLAWFUL, INVALID, IN WHOLE OR IN PART,
5 PROVIDED OBJECTIONS, AS HEREINBEFORE PROVIDED, WERE FILED WITH
6 THE DEPARTMENT, AND PAYMENT OF THE ASSESSMENT WAS MADE UNDER
7 PROTEST EITHER AS TO ALL OR PART THEREOF. IN ANY ACTION FOR
8 RECOVERY OF ANY PAYMENTS MADE UNDER THIS SECTION, THE CLAIMANT
9 SHALL BE ENTITLED TO RAISE EVERY RELEVANT ISSUE OF LAW, BUT THE
10 FINDINGS OF FACT MADE BY THE DEPARTMENT, PURSUANT TO THIS
11 SECTION, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS THEREIN
12 STATED. IF IT IS FINALLY DETERMINED IN ANY SUCH ACTION THAT ALL
13 OR ANY PART OF THE ASSESSMENT FOR WHICH PAYMENT WAS MADE UNDER
14 PROTEST WAS EXCESSIVE, ERRONEOUS, UNLAWFUL, OR INVALID, THE
15 DEPARTMENT SHALL MAKE A REFUND TO THE CLAIMANT OUT OF THE FUND,
16 AS DIRECTED BY THE COURT.

17 THE DEPARTMENT SHALL KEEP A RECORD OF THE MANNER IN WHICH IT
18 SHALL HAVE COMPUTED THE AMOUNT ASSESSED AGAINST EVERY INSURER OR
19 SELF-INSURER. SUCH RECORDS SHALL BE OPEN TO INSPECTION BY ALL
20 INTERESTED PARTIES. THE DETERMINATION OF SUCH ASSESSMENTS AND
21 THE RECORDS AND DATA UPON WHICH THE SAME ARE MADE, SHALL BE
22 CONSIDERED PRIMA FACIE CORRECT; AND IN ANY PROCEEDING INSTITUTED
23 TO CHALLENGE THE REASONABLENESS OR CORRECTNESS OF ANY ASSESSMENT
24 UNDER THIS SECITON, THE PARTY CHALLENGING THE SAME SHALL HAVE
25 THE BURDEN OF PROOF.

26 (d) The Secretary of Labor and Industry shall be the
27 administrator of the fund and shall have power to dispense and
28 disburse moneys from the fund for the above purposes at his
29 discretion. All moneys in the fund as are required to carry out
30 the purposes of this act are hereby specifically appropriated to

1 the Department of Labor and Industry for the use in the
2 administration of this act. Estimates of the amounts to be
3 expended from time to time shall however be submitted by the
4 Secretary of Labor and Industry to the Governor for his approval
5 or disapproval as in the case of other appropriations made to
6 administrative departments, boards, and commissions. The State
7 Treasurer shall be the custodian of the fund. It shall however
8 be unlawful for the State Treasurer to honor any requisition for
9 the expenditure of any moneys from the fund by the Secretary of
10 Labor and Industry in excess of estimates approved by the
11 Governor. The fund shall be audited by the Auditor General
12 annually and a copy of the report of the audit furnished to
13 assessed insurers and self-insurers upon request.

14 (e) Annual reports of the total compensation paid by
15 insurers, self-insurers, and the State Workmen's Insurance Fund
16 shall be made on a calendar year basis to the department not
17 later than April 15 of the following year: Provided, That
18 reports for the calendar year 1974 shall be filed within sixty
19 days of the effective date of this amending act. NOTHING IN THIS <—
20 ACT SHALL BE CONSTRUED TO PRECLUDE INSURERS FROM FILING ITS
21 ANNUAL REPORT REQUIRED THEREIN IN SUBSTANTIALLY THE SAME FORM AS
22 ITS ANNUAL REPORT TO THE INSURANCE DEPARTMENT.

23 (f) Contributions to the fund created by this act, at the
24 rates fixed by this act, shall be allowed in full as expenses of
25 the business of workmen's compensation insurance by the
26 Insurance Commissioner in fixing and approving rates for such
27 insurance.

28 Section 2. (a) Until such time as a sufficient cash balance
29 shall exist in the Workmen's Compensation Administration Fund to
30 meet promptly the expenses of the Commonwealth payable from such

1 fund, the State Treasurer is hereby authorized and directed,
2 from time to time, to transfer to the Workmen's Compensation
3 Administration Fund, if the same be deficient, from the General
4 Fund, such sums as the Governor shall direct. Any sums so
5 transferred shall be available for the purposes of which the
6 fund to which they are transferred is appropriated by law. Such
7 transfers shall be made hereunder upon warrant of the State
8 Treasurer upon requisition of the Governor.

9 (b) In order to reimburse the General Fund for such
10 transfers, an amount equal to that transferred from the General
11 Fund during any fiscal period shall be retransferred to the
12 General Fund from the Workmen's Compensation Administration Fund
13 in such amounts and at such times as the Governor shall direct,
14 but in no event later than 30 days after the end of such fiscal
15 period. Such transfers shall be made hereunder upon warrant of
16 the State Treasurer upon requisition of the Governor.

17 (c) The moneys in the General Fund and in the Workmen's
18 Compensation Administration Fund are hereby specifically
19 appropriated for transfer from time to time as provided for in
20 this act.

21 Section 3. This act shall take effect immediately.