

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 824

Session of
1975

INTRODUCED BY CIANFRANI, JUNE 16, 1975

AS AMENDED ON THIRD CONSIDERATION, DECEMBER 8, 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 (B) THE FUND SHALL BE MAINTAINED BY NO MORE THAN ONE (1) <—
23 ANNUAL ASSESSMENT PAYABLE IN ANY CALENDAR YEAR ON INSURERS AND
24 SELF-INSURERS UNDER THIS ACT, INCLUDING THE STATE WORKMEN'S
25 INSURANCE FUND. THE INITIAL ASSESSMENT FOR THE PERIOD COMMENCING
26 JULY 1, 1975 THROUGH DECEMBER 31, 1976, SHALL BE SEVEN PER
27 CENTUM OF THE TOTAL COMPENSATION PAID BY EACH INSURER, SELF-
28 INSURER AND THE STATE WORKMEN'S INSURANCE FUND IN THE CALENDAR
29 YEAR 1974. AFTER THE INITIAL TERM, BUDGETED EXPENSES SHALL BE
30 APPROVED BY THE GENERAL ASSEMBLY ON A FISCAL YEAR BASIS.

1 THEREAFTER, THE DEPARTMENT SHALL MAKE ASSESSMENTS AND COLLECT
2 MONEYS BASED ON THE RATIO THAT SUCH INSURER'S OR SELF-INSURER'S
3 PAYMENTS OF COMPENSATION BEAR TO THE TOTAL COMPENSATION PAID IN
4 THE PRECEDING CALENDAR YEAR IN WHICH THE ASSESSMENT IS MADE. THE
5 TOTAL AMOUNT ASSESSED SHALL BE THE APPROVED BUDGET. IF ON
6 JANUARY 31, THERE EXISTS IN THE ADMINISTRATION FUND ANY MONEY IN
7 EXCESS OF ONE HUNDRED FIFTY PER CENTUM OF THE CURRENT BUDGET THE
8 FOLLOWING FISCAL YEAR'S ASSESSMENT SHALL BE REDUCED BY AN AMOUNT
9 EQUAL TO THAT EXCESS AMOUNT.

10 (c) The department shall give notice to every insurer and
11 self-insurer under this act, including the State Workmen's
12 Insurance Fund, of the amount assessed against such insurer,
13 self-insurer, or the State Workmen's Insurance Fund on or before
14 June 30 of the year following the year upon which the assessment <—
15 is based NOVEMBER 30 OF EACH YEAR. Payment of assessments shall <—
16 be made to the department within thirty days of receipt of <—
17 notice of the amount assessed, ON OR BEFORE JANUARY 31 OF THE <—
18 NEXT YEAR unless the department specifies on the notices sent to
19 all insurers and self-insurers an installment plan of payment,
20 in which case each such insurer shall pay each installment on or
21 before the date specified therefore by the department: Provided,
22 That notice of the first annual INITIAL assessment under this <—
23 act shall be given to every insurer and self-insurer under this
24 act, including the State Workmen's Insurance Fund, within ninety
25 days of the effective date of this amendatory act. PAYMENT OF <—
26 THE INITIAL ASSESSMENTS SHALL BE MADE WITHIN THIRTY DAYS OF THE
27 MAILING OF SAID ASSESSMENTS.

28 IF THE GENERAL ASSEMBLY FAILS TO APPROVE THE DEPARTMENT'S
29 BUDGET FOR THE PURPOSES OF THIS ACT, BY THE LAST DAY OF
30 NOVEMBER, THE DEPARTMENT SHALL ASSESS INSURERS, SELF-INSURERS

1 AND THE STATE WORKMEN'S INSURANCE FUND ON THE BASIS OF THAT LAST
2 APPROVED OPERATING BUDGET. AT SUCH TIME AS THE GENERAL ASSEMBLY
3 APPROVES THE PROPOSED BUDGET THE DEPARTMENT SHALL HAVE THE
4 AUTHORITY TO MAKE AN ADJUSTMENT IN THE ASSESSMENTS TO REFLECT
5 THE APPROVED BUDGET. IF THE GENERAL ASSEMBLY FAILS TO APPROVE
6 THE DEPARTMENT'S BUDGET PRIOR TO JULY 1 OF ANY FISCAL YEAR,
7 MONEYS IN THE FUND ARE HEREBY APPROPRIATED TO THE DEPARTMENT FOR
8 THE PURPOSES OF THIS ACT.

9 Within fifteen days after the receipt of such notice, the
10 insurer or self-insurer against which such assessment has been
11 made may file with the department objections setting out in
12 detail the grounds upon which the objector regards such
13 assessment to be excessive, erroneous, unlawful, or invalid. The
14 department, after notice to the objector, shall hold a hearing
15 upon such objections. After such hearing, the department shall
16 record its findings on the objections and shall transmit to the
17 objector, by registered or certified mail, notice of the amount,
18 if any, charged against it in accordance with such findings,
19 which amount or any installment thereof then due, shall be paid
20 by the objector within ten days after receipt of notice of the
21 findings. If any payment prescribed by this subsection is not
22 made as aforesaid, the secretary of the department may recommend
23 to the Insurance Commissioner that appropriate action be taken
24 against the insurer or self-insurer, including revocation or
25 suspension of the company's license to transact business in the
26 Commonwealth.

27 No suit or proceeding shall be maintained in any court for
28 the purpose of restraining or in anywise delaying the collection
29 or payment of any assessment made under this subsection but
30 every insurer or self-insurer against which an assessment is

1 made shall pay the same as provided in subsection (c) of this
2 section. Any insurer or self-insurer making any such payment
3 may, at any time within two years from the date of payment, sue
4 the Commonwealth in an action at law to recover the amount paid,
5 or any part thereof, upon the ground that the assessment was
6 excessive, erroneous, unlawful, invalid, in whole or in part,
7 provided objections, as hereinbefore provided, were filed with
8 the department, and payment of the assessment was made under
9 protest either as to all or part thereof. In any action for
10 recovery of any payments made under this section, the claimant
11 shall be entitled to raise every relevant issue of law, but the
12 findings of fact made by the department, pursuant to this
13 section, shall be prima facie evidence of the facts therein
14 stated. If it is finally determined in any such action that all
15 or any part of the assessment for which payment was made under
16 protest was excessive, erroneous, unlawful, or invalid, the
17 department shall make a refund to the claimant out of the fund,
18 as directed by the court.

19 The department shall keep a record of the manner in which it
20 shall have computed the amount assessed against every insurer or
21 self-insurer. Such records shall be open to inspection by all
22 interested parties. The determination of such assessments and
23 the records and data upon which the same are made, shall be
24 considered prima facie correct; and in any proceeding instituted
25 to challenge the reasonableness or correctness of any assessment
26 under this section, the party challenging the same shall have
27 the burden of proof.

28 (d) The Secretary of Labor and Industry shall be the
29 administrator of the fund and shall have power to dispense and
30 disburse moneys from the fund for the above purposes at his

1 discretion. All moneys in the fund as are required to carry out
2 the purposes of this act are hereby specifically appropriated to
3 the Department of Labor and Industry for the use in the
4 administration of this act FROM JULY 1, 1975 UNTIL JUNE 30, <—
5 1976. THEREAFTER, ANNUAL APPROPRIATIONS SHALL BE MADE. Estimates
6 of the amounts to be expended from time to time shall however be
7 submitted by the Secretary of Labor and Industry to the Governor
8 for his approval or disapproval as in the case of other
9 appropriations made to administrative departments, boards, and
10 commissions. The State Treasurer shall be the custodian of the
11 fund. It shall however be unlawful for the State Treasurer to
12 honor any requisition for the expenditure of any moneys from the
13 fund by the Secretary of Labor and Industry in excess of
14 estimates approved by the Governor. The fund shall be audited by
15 the Auditor General annually and a copy of the report of the
16 audit furnished to assessed insurers and self-insurers upon
17 request.

18 (e) Annual reports of the total compensation paid by
19 insurers, self-insurers, and the State Workmen's Insurance Fund
20 shall be made on a calendar year basis to the department not
21 later than April 15 of the following year: Provided, That
22 reports for the calendar year 1974 shall be filed within sixty
23 days of the effective date of this amending act. Nothing in this
24 act shall be construed to preclude insurers from filing its
25 annual report required therein in substantially the same form as
26 its annual report to the Insurance Department.

27 (f) Contributions to the fund created by this act, at the
28 rates ~~fixed~~ SPECIFIED by this act, shall be allowed in full as <—
29 ~~expenses of the business of workmen's compensation insurance by~~
30 ~~the Insurance Commissioner in fixing and approving rates for~~ <—

~~such insurance. AND THE INSURERS SHALL BE PERMITTED TO FUND ON
AN IMMEDIATE AND PROSPECTIVE BASIS FOR THESE COSTS.~~

~~Section 2. (a) Until such time as a sufficient cash balance
shall exist in the Workmen's Compensation Administration Fund to
meet promptly the expenses of the Commonwealth payable from such
fund, the State Treasurer is hereby authorized and directed,
from time to time, to transfer to the Workmen's Compensation
Administration Fund, if the same be deficient, from the General
Fund, such sums as the Governor shall direct. Any sums so
transferred shall be available for the purposes of which the
fund to which they are transferred is appropriated by law. Such
transfers shall be made hereunder upon warrant of the State
Treasurer upon requisition of the Governor.~~

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

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

~~(G) FOR THE PURPOSES OF THIS SECTION THE TERMS
"COMPENSATION" AND "TOTAL COMPENSATION" SHALL INCLUDE WAGE LOSS
INDEMNITY AND PAYMENTS FOR MEDICAL EXPENSES UNDER THIS ACT AND
UNDER "THE PENNSYLVANIA OCCUPATIONAL DISEASE ACT."~~

~~(H) UNTIL SUCH TIME AS A SUFFICIENT CASH BALANCE SHALL EXIST~~

1 IN THE WORKMEN'S COMPENSATION ADMINISTRATION FUND TO MEET
2 PROMPTLY THE EXPENSES OF THE COMMONWEALTH PAYABLE FROM SUCH
3 FUND, THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED,
4 FROM TIME TO TIME, TO TRANSFER TO THE WORKMEN'S COMPENSATION
5 ADMINISTRATION FUND, IF THE SAME BE DEFICIENT, FROM THE GENERAL
6 FUND, SUCH SUMS AS THE GOVERNOR SHALL DIRECT. ANY SUMS SO
7 TRANSFERRED SHALL BE AVAILABLE FOR THE PURPOSES FOR WHICH THE
8 FUND TO WHICH THEY ARE TRANSFERRED IS APPROPRIATED BY LAW. SUCH
9 TRANSFERS SHALL BE MADE HEREUNDER UPON WARRANT OF THE STATE
10 TREASURER UPON REQUISITION OF THE GOVERNOR.

11 (I) IN ORDER TO REIMBURSE THE GENERAL FUND FOR SUCH
12 TRANSFERS, AN AMOUNT EQUAL TO THAT TRANSFERRED FROM THE GENERAL
13 FUND DURING ANY FISCAL PERIOD SHALL BE RETRANSFERRED TO THE
14 GENERAL FUND FROM THE WORKMEN'S COMPENSATION ADMINISTRATION FUND
15 IN SUCH AMOUNTS AND AT SUCH TIMES AS THE GOVERNOR SHALL DIRECT,
16 BUT IN NO EVENT LATER THAN 30 DAYS AFTER THE END OF SUCH FISCAL
17 PERIOD. SUCH TRANSFERS SHALL BE MADE HEREUNDER UPON WARRANT OF
18 THE STATE TREASURER UPON REQUISITION OF THE GOVERNOR.

19 (J) THE MONEYS IN THE GENERAL FUND AND IN THE WORKMEN'S
20 COMPENSATION ADMINISTRATION FUND ARE HEREBY SPECIFICALLY
21 APPROPRIATED FOR TRANSFER FROM TIME TO TIME AS PROVIDED FOR IN
22 THIS ACT.

23 Section 3 2. This act shall take effect immediately.

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