

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1077

By: Thompson and Hall of the  
Senate

6 and

7 Wallace and Hilbert of the  
8 House

9  
10 COMMITTEE SUBSTITUTE

11 An Act relating to workers' compensation; amending  
12 Section 31, Chapter 208, O.S.L. 2013, as last amended  
13 by Section 60, Chapter 476, O.S.L. 2019 (85A O.S.  
14 Supp. 2020, Section 31), which relates to the  
15 Multiple Injury Trust Fund; deleting obsolete  
16 language; extending applicability of certain  
17 assessment rate; and declaring an emergency.

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

19 SECTION 1. AMENDATORY Section 31, Chapter 208, O.S.L.  
20 2013, as last amended by Section 60, Chapter 476, O.S.L. 2019 (85A  
21 O.S. Supp. 2020, Section 31), is amended to read as follows:

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

24 1. As soon as practicable after January 1 of each year, the  
commissioners of the Workers' Compensation Commission shall

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

22 2. The assessments shall be paid to the Oklahoma Tax  
23 Commission. Insurance carriers, self-insurers, and group self-  
24 insurance associations shall pay the assessment in four equal

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

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

1           b. For purposes of this subsection:

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

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

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

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

1 ~~The amended rate shall be in effect beginning October 1, 2019, for~~  
2 ~~the remainder of fiscal year 2020;~~

3 5. a. No mutual or interinsurance association, stock  
4 company, or other insurance carrier writing workers'  
5 compensation insurance in this state may be assessed  
6 in any year an amount greater than seven percent (7%)  
7 of the gross direct written premiums of that insurer.  
8 The authorization for a maximum seven-percent  
9 assessment shall exist ~~for a period of three (3) years~~  
10 until fiscal year 2027, then revert back to six  
11 percent (6%) thereafter.

12 b. No employer carrying its own risk may be assessed in  
13 any year an amount greater than seven percent (7%) of  
14 the total actual paid losses of that individual self-  
15 insured. The authorization for a maximum seven-  
16 percent assessment shall exist ~~for a period of three~~  
17 ~~(3) years~~ until fiscal year 2027, then revert back to  
18 six percent (6%) thereafter.

19 c. No group self-insurance association may be assessed in  
20 any year an amount greater than seven percent (7%) of  
21 the normal premium of that group self-insurance  
22 association. The authorization for a maximum seven-  
23 percent assessment shall exist ~~for a period of three~~  
24

1           ~~(3) years~~ until fiscal year 2027, then revert back to  
2           six percent (6%) thereafter;

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

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

- 17           a. if an award has been made by the Workers' Compensation  
18           Court of Existing Claims or the Workers' Compensation  
19           Commission for permanent partial disability or  
20           permanent total disability, or if a Compromise  
21           Settlement or Joint Petition has been approved, the  
22           employer or insurance carrier shall pay to such  
23           employee the amount of the award less the assessment.  
24           The assessment shall be paid to the Oklahoma Tax

1 Commission no later than the fifteenth day of the  
2 month following the close of each quarter of the  
3 calendar year in which compensation is paid or became  
4 payable, and

5 b. in making and entering awards for compensation for  
6 permanent total disability or permanent partial  
7 disability, three percent (3%) of the total award or  
8 settlement shall be paid to the Tax Commission no  
9 later than the fifteenth day of the month following  
10 the close of each quarter of the calendar year in  
11 which compensation is paid or became payable. The  
12 total amount of the deduction so determined and fixed  
13 shall have the same force and effect as an award for  
14 compensation, and all provisions relating to the  
15 collection of awards shall apply to such judgments;  
16 and

17 8. If the revenue in any one (1) year is insufficient to make  
18 all necessary payments for obligations of the Multiple Injury Trust  
19 Fund and for the allocations provided for in subsection J of this  
20 section, the unpaid portion shall be paid as soon thereafter as  
21 funds become available.

22 B. The Multiple Injury Trust Fund is hereby authorized to  
23 receive and expend monies appropriated by the Legislature.  
24

1 C. It shall be the duty of the Tax Commission to collect the  
2 payments provided for in this act. The Tax Commission is hereby  
3 authorized to bring an action for the recovery of any delinquent or  
4 unpaid payments required in this section.

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

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

23 F. 1. On or before the first day of April of each year, the  
24 State Treasurer shall advise the Commission, the MITF Director and

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

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

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

17 b. advise the Chief Executive Officer of CompSource  
18 Mutual Insurance Company on or before the first day of  
19 November of the money held as of October 1 of that  
20 year by the State Treasurer to the credit of the  
21 Multiple Injury Trust Fund.

22 G. Eighty percent (80%) of all sums held by the State Treasurer  
23 to the credit of the Multiple Injury Trust Fund may by order of the  
24 MITF Director be invested in or loaned on the pledge of any of the

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

17 H. The refund provisions of Sections 227 through 229 of Title  
18 68 of the Oklahoma Statutes shall be applicable to any payments made  
19 to the Multiple Injury Trust Fund. Refunds shall be paid from and  
20 out of the Multiple Injury Trust Fund.

21 I. Beginning July 1, 2019, One Million Dollars (\$1,000,000.00)  
22 of the funds in the Multiple Injury Trust Fund shall be transferred  
23 annually on July 1 to the Oklahoma Department of Labor Revolving  
24 Fund exclusively for the operation and administration of the

1 Oklahoma Occupational Health and Safety Standards Act and for other  
2 necessary expenses of the Department of Labor.

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

10 K. The Commission shall promulgate rules as the Commission  
11 deems necessary to effectuate the provisions of this section.

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

16 M. The MITF Director shall have authority to fulfill all  
17 payment obligations of the Multiple Injury Trust Fund.

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

23 O. Any dividend, rebate, or other distribution, payable by  
24 CompSource Mutual Insurance Company or any other workers'

1 compensation insurance carrier, to a state agency policyholder shall  
2 be paid to the State Treasurer, and shall be credited as follows:

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

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

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

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

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

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

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

12 SECTION 2. It being immediately necessary for the preservation  
13 of the public peace, health or safety, an emergency is hereby  
14 declared to exist, by reason whereof this act shall take effect and  
15 be in full force from and after its passage and approval.

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