

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 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~~

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.

16
17 58-1-2180 TEK 5/14/2021 12:52:11 PM

18
19
20
21
22
23
24