

1 ENGROSSED SENATE
2 BILL NO. 1077

By: Thompson and Hall of the
Senate

3 and

4 Wallace, Hilbert and Fugate
5 of the House

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7
8 An Act relating to workers' compensation; amending
9 Section 31, Chapter 208, O.S.L. 2013, as last amended
10 by Section 60, Chapter 476, O.S.L. 2019 (85A O.S.
11 Supp. 2020, Section 31), which relates to the
Multiple Injury Trust Fund; deleting obsolete
language; extending applicability of certain
assessment rate; and declaring an emergency.

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

15 SECTION 1. AMENDATORY Section 31, Chapter 208, O.S.L.
16 2013, as last amended by Section 60, Chapter 476, O.S.L. 2019 (85A
17 O.S. Supp. 2020, Section 31), is amended to read as follows:

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

20 1. As soon as practicable after January 1 of each year, the
21 commissioners of the Workers' Compensation Commission shall
22 establish an assessment rate applicable to each mutual or
23 interinsurance association, stock company, or other insurance
24 carrier writing workers' compensation insurance in this state, each

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

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

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

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

22 b. For purposes of this subsection:

23 (1) "actual paid losses" means all medical and
24 indemnity payments, including temporary

1 disability, permanent disability, and death
2 benefits, and excluding loss adjustment expenses
3 and reserves, and

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

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

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

- 1 5. a. No mutual or interinsurance association, stock
2 company, or other insurance carrier writing workers'
3 compensation insurance in this state may be assessed
4 in any year an amount greater than seven percent (7%)
5 of the gross direct written premiums of that insurer.
6 The authorization for a maximum seven-percent
7 assessment shall exist ~~for a period of three (3) years~~
8 until fiscal year 2027, then revert back to six
9 percent (6%) thereafter.
- 10 b. No employer carrying its own risk may be assessed in
11 any year an amount greater than seven percent (7%) of
12 the total actual paid losses of that individual self-
13 insured. The authorization for a maximum seven-
14 percent assessment shall exist ~~for a period of three~~
15 ~~(3) years~~ until fiscal year 2027, then revert back to
16 six percent (6%) thereafter.
- 17 c. No group self-insurance association may be assessed in
18 any year an amount greater than seven percent (7%) of
19 the normal premium of that group self-insurance
20 association. The authorization for a maximum seven-
21 percent assessment shall exist ~~for a period of three~~
22 ~~(3) years~~ until fiscal year 2027, then revert back to
23 six percent (6%) thereafter;
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1 6. The Oklahoma Tax Commission shall assess and collect from
2 any uninsured employer a temporary assessment at the rate of five
3 percent (5%) of the total compensation for permanent total
4 disability awards, permanent partial disability awards and death
5 benefits paid out during each quarter of the calendar year by
6 employers. The assessment shall be paid in four equal installments
7 not later than the fifteenth day of the month following the close of
8 the calendar year of the assessments. For the purpose of this
9 paragraph, "uninsured employer" means an employer required by law to
10 secure its workers' compensation obligations but who has failed or
11 neglected to do so;

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

15 a. if an award has been made by the Workers' Compensation
16 Court of Existing Claims or the Workers' Compensation
17 Commission for permanent partial disability or
18 permanent total disability, or if a Compromise
19 Settlement or Joint Petition has been approved, the
20 employer or insurance carrier shall pay to such
21 employee the amount of the award less the assessment.
22 The assessment shall be paid to the Oklahoma Tax
23 Commission no later than the fifteenth day of the
24 month following the close of each quarter of the

1 calendar year in which compensation is paid or became
2 payable, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 J. Except for the monies provided for in subsection I of this
2 section, 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. The Commission shall promulgate rules as the Commission
9 deems necessary to effectuate the provisions of this section.

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

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

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

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

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

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

23 S. The State Treasurer shall allocate to the Commission out of
24 the Multiple Injury Trust Fund sufficient funds for administration

1 expenses thereof in amounts to be fixed and approved by the Director
2 for the Multiple Injury Trust Fund, unless rejected by the Workers'
3 Compensation Commission.

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

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

14 Passed the Senate the 17th day of May, 2021.

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Presiding Officer of the Senate

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18 Passed the House of Representatives the ____ day of _____,
19 2021.

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Presiding Officer of the House
of Representatives

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