MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Senator(s) Michel To: Appropriations

SENATE BILL NO. 2452

[AN ACT TO AMEND SECTIONS 71-3-73, 71-3-95, 71-3-97, 71-3-99 AND 71-3-100, MISSISSIPPI CODE OF 1972, TO REESTABLISH THE MISSISSIPPI WORKERS' COMPENSATION COMMISSION AS A SPECIAL FUND AGENCY; TO AMEND SECTION 27-104-205, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 71-3-73, Mississippi Code of 1972, is amended as follows:

71-3-73. *** * *** If an employee who has previously lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, becomes permanently and totally incapacitated through the loss, or loss of use, of another member or organ, the employer shall be liable only for the compensation payable for such second injury. In addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for permanent total incapacity, out of a special fund known as the "Second Injury *** * *** Fund," and created for such purpose in the following manner:

In every case of compensable death of an employee under this chapter, the employer or, if insured, his insurance carrier shall pay to the commission the sum of Three Hundred Dollars ($300.00) except in cases where there is no dependency, then there shall be paid to the commission the sum of Five Hundred Dollars ($500.00) to be deposited with the State Treasurer for the benefit of said fund. A suspension of said payments of Three Hundred Dollars ($300.00) per death shall be made when the total amount of all such payments, together with the accumulated interest thereon, equals or exceeds Three Hundred Fifty Thousand Dollars ($350,000.00), and no further contributions to said fund shall be made except in cases where there is no dependency. Whenever, thereafter, the amount of such sum shall be reduced below One Hundred Fifty Thousand Dollars ($150,000.00) by reason of payments made pursuant to this section, then such contributions of Three Hundred Dollars ($300.00) per death shall be resumed forthwith and shall continue until such sum, together with accumulated interest thereon, shall again amount to Three Hundred Fifty Thousand Dollars ($350,000.00); and the commission shall direct the distribution thereof.

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SECTION 2. Section 71-3-95, Mississippi Code of 1972, is amended as follows:

71-3-95. (1) The commission shall make such expenditures as may be necessary for the adequate administration of this chapter,

including salaries and traveling expense, the cost of personal services, office rent at the seat of government and elsewhere, the purchase of books, periodicals, office equipment and supplies, printing and binding reports, the cost of membership in official organizations, and other purposes. All expenditures of the commission in the administration of this chapter shall be allowed and paid out of the * * * Administrative Expense Fund as provided in Section * * * 71-3-97, upon the presentation of itemized vouchers therefor approved by the chairman of the commission.

(2) The commission is authorized, in its discretion, to transfer a sum or sums not to exceed Two Hundred Thousand Dollars ($200,000.00) from the Administrative Expense Fund to the Second Injury Fund. The commission is further authorized, in its discretion, to replace any funds so transferred in the event that funds become available.

SECTION 3. Section 71-3-97, Mississippi Code of 1972, is amended as follows:

71-3-97. (1) There is established in the State Treasury a special fund for the purpose of providing for the payment of all expenses in respect to the administration of this chapter. Such fund shall be administered by the commission. The State Treasurer shall be the custodian of such funds, and all monies and securities in such fund shall be held in trust by the State Treasurer and shall not be the money or property of the state.

(2) The State Treasurer is authorized to disburse monies from such fund only upon order of the commission. The official bond of the State Treasurer shall be conditioned for the faithful performance of his duty hereunder.

(3) The State Treasurer shall deposit any monies paid into such fund into such qualified depository banks as the commission may designate, and is authorized to invest any portion of the fund which, in the opinion of the commission, is not needed for current requirements, in the same manner and subject to all the provisions of the law with respect to the deposit of state funds by the State Treasurer. All interest earned by such portion of the fund as may be invested by the State Treasurer shall be collected by him and placed to the credit of such fund.

(4) All civil penalties provided in this chapter, if not voluntarily paid, may be collected by civil suit brought by the commission, and shall be paid into * * * such fund.

SECTION 4. Section 71-3-99, Mississippi Code of 1972, is amended as follows:

71-3-99. (1) The commission shall estimate annually in advance the amounts necessary for the administration of this chapter, in the following manner:

(a) The commission shall, as soon as practicable after the first day of January in each year, determine the expense of administration of this chapter for the one-year period preceding the first day of January. The expense of administration for such

period shall be used as the basis for determining the amount to be assessed against each carrier and self-insurer in order to provide for the expenses of the administration of this chapter for the one-year period.

(b) Each carrier and self-insurer shall be assessed Two Hundred Fifty Dollars ($250.00). The proceeds of such assessment shall be deducted from the estimate of total expenses and the remaining expenses of administration shall be prorated among the carriers writing compensation insurance in the state and self-insurers. The gross claims for compensation and medical services and supplies paid by the insurance carriers and self-insurers is the basis for computing the amount to be assessed, in the proportion that the total gross claims for compensation and medical services and supplies paid by such carrier or self-insurer during the preceding one-year period bore to the total gross claims for compensation and medical supplies and services paid by all carriers and self-insurers during such period. This amount may be assessed as a specific amount or as a percentage of gross claims for compensation and medical supplies and services paid by the insurance carriers and self-insurers as the commission may direct, and shall be such amount as shall be reasonably necessary to defray the necessary expense of such administration.

(2) The commission shall provide by regulation for the collection of the amounts assessed against each carrier and

self-insurer. Such amounts shall be paid within thirty (30) days from the date that notice is served upon such carrier. If such amounts are not paid within such period, there may be assessed, for each thirty (30) days the amount so assessed remains unpaid, a civil penalty equal to ten percent (10%) of the amount so unpaid, which shall be collected at the same time and as a part of the amount assessed.

(3) If any carrier or self-insurer fails to pay the amounts assessed against it under the provisions of this section within sixty (60) days from the time such notice is served, the commission may suspend or revoke the authorization to insure compensation or to be self-insured.

(4) All amounts collected under the provisions of this section shall be paid into the *** * *** Administrative Expense Fund *** * ***.

(5) The commission may require from each carrier and self-insurer, at such time and in accordance with regulations as the commission may prescribe, reports in respect to all payments of compensation and medical supplies and services by such carriers or self-insurers during each prior period, and may determine the amounts paid by each carrier and self-insurer and the amounts paid by all carriers and self-insurers during such period.

(6) Every carrier and self-insurer shall file with the commission on or before the first day of March of each year, a statement on the prescribed forms showing the gross claims for

compensation and medical services and supplies paid by such carrier or self-insurer during the preceding one-year period ending on the thirty-first day of December. Any carrier or self-insurer which neglects to make and file its annual written statement within the time provided in this chapter shall pay to the commission Twenty Dollars ($20.00) for each day's neglect.

SECTION 5. Section 71-3-100, Mississippi Code of 1972, is amended as follows:

71-3-100. All funds received by the Workers' Compensation Commission, as established by Section 71-3-85 et seq., shall be paid to the State Treasurer, who shall issue receipts therefor and who shall deposit such funds *** * *** in the State Treasury <u>in a special fund to the credit of the commission</u>. <u>All such funds shall be expended only pursuant to appropriation approved by the Legislature and as provided by law.</u>

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From and after July 1, 2016, the Workers' Compensation Commission shall not charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of Section 71-3-85 et seq.

SECTION 6. Section 27-104-205, Mississippi Code of 1972, is amended as follows:

27-104-205. (1) From and after July 1, 2016, the expenses of the following enumerated state agencies shall be defrayed by appropriation of the Legislature from the State General Fund: the

State Fire Marshal, the State Fire Academy, the Office of Secretary of State (not including the Preneed Contracts Loss Recovery Fund), the Mississippi Public Service Commission, the Mississippi Department of Information Technology Services, (not including the Mississippi Department of Information Technology Services Revolving Fund), the State Personnel Board, the Mississippi Department of Insurance (not including the Municipal Fire Protection Fund, Section 83-1-37, the County Volunteer Fire Department Fund, Section 83-1-39, and the Mississippi Propane Education and Research Fund, Section 75-57-119), the Mississippi Law Enforcement Officers' Minimum Standards Board, the Mississippi Gaming Commission, the Mississippi Department of Revenue - License Tag, the Office of the State Public Defender, *** * *** and the Office of Attorney General. Beginning July 1, 2016, any fees, assessments or other revenues charged for the support of the above-named state agencies shall be deposited into the State General Fund, and any special fund or depository established within the State Treasury for the deposit of such fees, assessments or revenues shall be abolished and the balance transferred to the State General Fund. Expenses heretofore drawn from such special funds or other depositories shall be drawn from the agencies General Fund Account.

(2) Beginning with the fiscal year ending June 30, 2016, the amount to be appropriated annually from the State General Fund for the support of each of the above-named state agencies shall not

exceed the amount appropriated for such purpose in the preceding fiscal year, plus any increases in or additional fees, assessments or other charges authorized by act of the Legislature for the succeeding fiscal year.

(3) The provisions of this section shall not apply to any trust fund account that is maintained by any above-named agency.

(4) The provisions of this section shall not prohibit any of the above-named agencies from maintaining clearing accounts in approved depositories.

(5) The provisions of this section shall not apply to any trust fund accounts maintained by the Public Employees' Retirement System and protected under Section 272A of the Mississippi Constitution of 1890.

SECTION 7. This act shall take effect and be in force from and after July 1, 2021.