

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative Young**

# A Bill

**HOUSE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 23-67-204 AND  
9 23-67-205 TO EQUITABLY APPORTION THE ASSESSMENT COSTS OF  
10 MAINTENANCE OF THE ARKANSAS WORKERS\_ COMPENSATION  
11 INSURANCE PLAN AMONGST BOTH LARGER AND SMALLER EMPLOYERS  
12 WITHIN THE STATE; TO DECLARE AN EMERGENCY; AND FOR OTHER  
13 PURPOSES."

## Subtitle

16 "TO ASSESS SELF-INSURED EMPLOYERS FOR COSTS OF THE  
17 WORKERS\_ COMPENSATION INSURANCE PLAN."

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21 SECTION 1. Arkansas Code § 23-67-204 is hereby amended to read as  
22 follows:

23 "23-67-204. Plan for coverage.

24 (a) The Arkansas Workers' Compensation Insurance Plan shall give  
25 consideration to:

- 26 (1) The need for adequate and readily accessible coverage;
- 27 (2) Optional methods of improving the market affected;
- 28 (3) The need for reasonable underwriting standards;
- 29 (4) The need for adequate supervisory and servicing procedures to  
30 ensure proper operation of the plan;
- 31 (5) The need to establish procedures that will have minimum  
32 interference with the voluntary market;
- 33 (6) Distributing the obligations imposed by the plan and any  
34 profits or losses experienced by the plan equitably and efficiently among the  
35 participating insurers, self-insurers and self-insured groups approved by the

1 Workers\_ Compensation Commission under § 11-9-404(a)(2); and

2 (7) Establishing procedures for applicants and participants to  
3 have their grievances reviewed.

4 (b) The plan shall provide for the issuance of a policy covering the  
5 entire liability of the employer as to the business for which workers'  
6 compensation insurance has been rejected.

7 (c) The rates and supplementary rate information of the Arkansas  
8 Workers' Compensation Insurance Plan shall meet the standards specified in §  
9 23-67-108.

10 (d) The plan may obtain reinsurance for any part or all of its risks.

11 (e)(1) The commissioner, at his discretion, is authorized to delegate  
12 all, or any part of the commissioner's responsibility to establish and operate  
13 the plan; provided however, that any such plan, or plan of operation, and any  
14 amendments thereto must receive the prior approval of the commissioner.

15 (2) Any person or entity to whom the establishment,  
16 implementation, or operation of the plan is delegated pursuant to this  
17 subsection shall file with the commissioner all policy forms, forms, rates, or  
18 supplementary rate information necessary to effectuate the plan."

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20 SECTION 2. Arkansas Code § 23-67-205 is hereby amended to read as  
21 follows:

22 "23-67-205. Mandatory participation in the Arkansas Workers'  
23 Compensation Insurance Plan.

24 (a) All insurers licensed to transact workers' compensation and  
25 employers' liability insurance in this state, as defined in § 23-62-105(a)(3)  
26 and who have qualified to transact workers' compensation insurance pursuant to  
27 § 11-9-302(a) shall participate in the equitable apportionment among them of  
28 risks eligible for the Arkansas Workers' Compensation Insurance Plan. Self-  
29 insurers and self-insured groups, although members of the Arkansas Workers\_  
30 Compensation Insurance Plan as hereinabove provided, shall not be required to  
31 assume risks other than their own.

32 (b) Participation in the plan expenses, profits, and losses shall be in  
33 the proportion that the net direct workers' compensation insurance premiums of  
34 each member written in this state during the preceding calendar year bears to  
35 the aggregate net direct workers' compensation insurance premiums of all

1 members of the plan written in this state during the preceding calendar year."

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3 SECTION 3. All provisions of this act of a general and permanent nature  
4 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
5 Revision Commission shall incorporate the same in the Code.

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7 SECTION 4. If any provision of this act or the application thereof to  
8 any person or circumstance is held invalid, such invalidity shall not affect  
9 other provisions or applications of the act which can be given effect without  
10 the invalid provision or application, and to this end the provisions of this  
11 act are declared to be severable.

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13 SECTION 5. All laws and parts of laws in conflict with this act are  
14 hereby repealed.

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16 SECTION 6. EMERGENCY. It is hereby found and determined by the General  
17 Assembly that under current law the entire cost of subsidizing the losses of  
18 the "assigned risk" Workers\_ Compensation Insurance Plan falls upon insurers,  
19 who, in turn, pass that cost on to their insureds, which are, primarily, small  
20 employers; that larger employers with many thousands of employees, have been  
21 in many instances successful in achieving the economics inherent in self-  
22 insured status, by obtaining approval of the Workers\_ Compensation Commission  
23 as to their financial capacity to pay the Workers\_ Compensation claims of  
24 their employees, but in doing so they have removed themselves from the  
25 assessment base for the Workers\_ Compensation Insurance Plan, the successful  
26 operation of which is in the best interests of all citizens of Arkansas,  
27 including both large and small employers; that the appropriate means of  
28 bringing equity back into the assessment program and to equitably apportion  
29 the costs of the plan to all those who benefit from its existence is to  
30 immediately make certain that all employers bear their proportionate  
31 assessment responsibility. Therefore, an emergency is hereby declared to  
32 exist and this act being immediately necessary for the preservation of the  
33 public peace, health and safety shall be in full force and effect from and  
34 after its passage and approval.

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