

Stricken language would be deleted from and underlined language would be added to the law as it existed  
prior to this session of the General Assembly.  
**Act 505 of the Regular Session**

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

SENATE BILL 368

4  
5 By: Senator Altes  
6 By: Representative Matayo

## For An Act To Be Entitled

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10 AN ACT TO REVISE WORKERS' COMPENSATION  
11 ADMINISTRATIVE TAX PROCEDURES; TO REQUIRE  
12 CASUALTY INSURERS TO MAINTAIN ACCIDENT PREVENTION  
13 SERVICES IN ORDER TO WRITE WORKERS' COMPENSATION  
14 INSURANCE; TO AMEND PORTIONS OF THE ARKANSAS CODE  
15 THAT RESULTED FROM INITIATED ACT 4 OF 1948; AND  
16 FOR OTHER PURPOSES.

## Subtitle

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19 TO REVISE WORKERS' COMPENSATION  
20 ADMINISTRATIVE TAX PROCEDURES AND  
21 ACCIDENT PREVENTION SERVICES  
22 REQUIREMENTS AND TO AMEND PORTIONS OF  
23 THE ARKANSAS CODE THAT RESULTED FROM  
24 INITIATED ACT 4 OF 1948.

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

28  
29 SECTION 1. Arkansas Code § 11-9-303, concerning workers' compensation  
30 taxes on written manual premiums and derived from Initiated Act 4 of 1948, is  
31 amended to read as follows:

32 11-9-303. Payment of tax by carrier.

33 (a) In addition to the premium taxes collected from carriers, the  
34 carriers shall pay annually to the Workers' Compensation Commission a tax, at  
35 the rate to be determined as provided in § 11-9-306 but not to exceed three



1 percent (3%), on all written manual premiums resulting from the writing of  
2 workers' compensation insurance on risks within the state.

3 (b) "Written manual premium" ~~shall mean~~ means premium produced in a  
4 given year by the manual rates in effect during the experience period and  
5 shall exclude the premium produced by the expense constant. Furthermore,  
6 "written manual premium", for the purpose of this chapter, means premium  
7 before any allowable deviated discounts, any experience rating modification,  
8 any premium discount, any reinsurance or deductible arrangement as common  
9 with fronting carriers, any dividend consideration, or other trade discount.

10 (c)(1) This tax shall be collected by the ~~Insurance Commissioner~~  
11 commission from the carriers at the same time and in the same manner as  
12 ~~provided in the premium tax sections of the law of this state~~ insurance  
13 premium taxes under § 26-57-601 et seq. and deposited into the funds created  
14 in § 11-9-301.

15 (2) This transfer from the funds created in § 11-9-301 shall be  
16 in the same proportions that deposits were made into the three (3) funds as  
17 set forth in § 11-9-306(a)-(c).

18 (d)(1) Assessments upon which premium taxes are based shall be made on  
19 forms prescribed ~~jointly by the Insurance Commissioner and~~ by and paid to the  
20 commission.

21 (2) Absent a waiver obtained from the commission for good cause,  
22 the failure of the licensed carrier to pay the assessment when due shall be  
23 referred to the Insurance Commissioner for appropriate administrative action  
24 against the Arkansas certificate of authority of the delinquent insurer.

25 (e) Premium tax payments shall be made by check payable to the  
26 commission.

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28 SECTION 2. Effective January 1, 2006, Arkansas Code § 11-9-305,  
29 concerning workers' compensation taxes of public employers and derived from  
30 Initiated Act 4 of 1948, is amended to read as follows:

31 11-9-305. Payment of tax by public employer.

32 (a)(1) It shall be the duty of the Workers' Compensation Commission to  
33 collect a tax from every public employer providing workers' compensation  
34 coverage to its employees at a rate to be determined as provided by § 11-9-  
35 306 but not to exceed three percent (3%) of the written manual premium which  
36 an insurance carrier would have to pay under § 11-9-303 if the public

1 employer were insured by a carrier.

2 (2)(A) ~~The Public Employee Claims Division, or its successor~~  
 3 ~~agency, commission~~ shall collect and tabulate the tax to be collected from  
 4 ~~public employers and furnish the tabulated information to the commission,~~  
 5 ~~together with four (4) separate payments representing the tax collected from~~  
 6 ~~each of the four (4) categories of public employers: the state; the counties;~~  
 7 ~~the municipalities; and the school districts~~ entities whose workers'  
 8 compensation claims are administered by the Public Employee Claims Division  
 9 of the State Insurance Department.

10 (B) In tabulating the manual premium, a public employer  
 11 whose workers' compensation claims are administered by the Public Employee  
 12 Claims Division shall use the average compensation rate for this state as  
 13 promulgated by the National Council on Compensation Insurance for the tax  
 14 year in question.

15 (3) The tax collected shall be deposited in and paid to the  
 16 commission from the Workers' Compensation Revolving Fund and miscellaneous  
 17 revolving funds.

18 (b)(1) In the event any public employer whose workers' compensation  
 19 claims are administered by the Public Employee Claims Division fails to  
 20 cooperate in furnishing information upon which the tax will be computed or  
 21 fails to pay the tax within thirty (30) days of the date provided in § 11-9-  
 22 306, the ~~Director of the Public Employee Claims Division~~ commission shall  
 23 notify the ~~commission~~ Director of the Public Employee Claims Division of the  
 24 State Insurance Department of the failure, and the commission shall decertify  
 25 the public employer from participation in the state's workers' compensation  
 26 program.

27 (2) In the event of decertification, the public employer shall  
 28 obtain its employer's workers' compensation liability coverage from the  
 29 private market and shall not be entitled to participate in the state's  
 30 workers' compensation program for a period of one (1) year thereafter.

31 (c) The procedure for decertification shall be the same as for the  
 32 revocation or termination of the self-insurer privilege.

33 ~~(d) [Repealed.]~~

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 35 SECTION 3. Effective January 1, 2006, Arkansas Code § 11-9-306,  
 36 concerning the certification of workers' compensation taxes and derived from

1 Initiated Act 4 of 1948, is amended to read as follows:

2 11-9-306. ~~Certification~~ Determination of surplus and rate of taxation.

3 (a)(1) The Workers' Compensation Commission, on or before December 31  
4 of each year, shall ~~certify to the Insurance Commissioner~~ determine the  
5 surplus, if any, in the Workers' Compensation Fund, together with the  
6 additional amounts necessary to properly administer this chapter for the  
7 ensuing year.

8 (2) The commission shall ~~state in the certification~~ determine  
9 the rate of taxation for collections for that year on or before March 1 of  
10 the following year.

11 (b)(1) The commission, on or before December 31 of each year, shall  
12 ~~certify to the Insurance Commissioner~~ determine the surplus, if any, in the  
13 Second Injury Trust Fund, together with the additional amounts necessary to  
14 properly administer this chapter for the ensuing year.

15 (2) The commission shall ~~state in the certification~~ determine  
16 the rate of taxation for collections for that year on or before March 1 of  
17 the following year.

18 (c)(1) The commission, on or before December 31 of each year, shall  
19 ~~certify to the Insurance Commissioner~~ determine the surplus, if any, in the  
20 Death and Permanent Total Disability Trust Fund, together with the additional  
21 amounts necessary to properly administer this chapter for the ensuing year.

22 (2) The commission shall ~~state in the certification~~ determine  
23 the rate of taxation for collections for that year on or before March 1 of  
24 the following year.

25 (d) The total rate of taxation for all three (3) funds when added  
26 together shall not exceed three percent (3%).

27 (e)(1) The ~~Insurance Commissioner~~ commission shall notify each  
28 insurance carrier of the rate of taxation applicable to each fund for the  
29 preceding year, and taxes shall be computed and paid pursuant to the  
30 provisions of § 11-9-303(c) on or before April 1 of the following year.

31 (2) The commission shall notify each self-insured employer  
32 subject to the tax ~~as to~~ of the rate of taxation applicable to each fund for  
33 the preceding year, and taxes shall be computed by the commission and paid to  
34 each fund by the self-insurer through payments made directly to the  
35 commission on or before April 1 of the following year.

36 (3) The commission shall ~~also~~ notify each public employer

1 subject to this tax ~~by notifying the Public Employee Claims Division, or its~~  
 2 ~~successor agency,~~ of the rate of taxation applicable to each fund for the  
 3 preceding year, and taxes shall be computed by the ~~division~~ commission and  
 4 paid to each respective fund ~~by the public employer~~ through payments made  
 5 directly to the commission by the public employer on or before April 1 of the  
 6 following year.

7 (f) The commission, ~~in cooperation with the Insurance Commissioner,~~  
 8 shall have the authority to promulgate rules or regulations for  
 9 administration of the assessment and tax collection process, including, but  
 10 not limited to, rules and regulations applicable to the funds established in  
 11 § 11-9-301.

12 (g) No later than March 30 each year, the commission shall provide the  
 13 Insurance Commissioner a complete listing of workers' compensation premium  
 14 tax collections for the preceding calendar year, including the monetary  
 15 amount of workers' compensation premium tax paid, by year, name of workers'  
 16 compensation carrier, and National Association of Insurance Commissioners  
 17 identity number.

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 19 SECTION 4. Arkansas Code § 11-9-409(d)(1), concerning workers'  
 20 compensation insurers' accident prevention services and derived from  
 21 Initiated Act 4 of 1948, is amended to read as follows:

22 (1) Any insurance company licensed to provide casualty insurance  
 23 in the State of Arkansas and desiring to write workers' compensation  
 24 insurance in Arkansas shall maintain or provide accident prevention services  
 25 as a prerequisite ~~for a license~~ to write ~~such~~ workers' compensation  
 26 insurance. ~~Such~~ The services shall be adequate to furnish accident  
 27 prevention programs required by the nature of its policyholders' operations  
 28 and shall include surveys, recommendations, training programs, consultations,  
 29 analyses of accident causes, industrial hygiene, and industrial health  
 30 services to implement the program of accident prevention services.

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 33 APPROVED: 3/02/2005  
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