

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.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

SENATE BILL 368

5 By: Senator Altes
6 By: Representative Matayo
7

For An Act To Be Entitled

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

17
18
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.
25
26

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
36 percent (3%), on all written manual premiums resulting from the writing of



1 workers' compensation insurance on risks within the state.

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

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

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

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

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

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

26
27 SECTION 2. Effective January 1, 2006, Arkansas Code § 11-9-305,
28 concerning workers' compensation taxes of public employers and derived from
29 Initiated Act 4 of 1948, is amended to read as follows:

30 11-9-305. Payment of tax by public employer.

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

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

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

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

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

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

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

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

33
 34 SECTION 3. Effective January 1, 2006, Arkansas Code § 11-9-306,
 35 concerning the certification of workers' compensation taxes and derived from
 36 Initiated Act 4 of 1948, is amended to read as follows:

1 11-9-306. ~~Certification~~ Determination of surplus and rate of taxation.

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

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

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

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

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

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

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

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

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

35 (3) The commission shall ~~also~~ notify each public employer
36 subject to this tax ~~by notifying the Public Employee Claims Division, or its~~

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

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

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

17
 18 SECTION 4. Arkansas Code § 11-9-409(d)(1), concerning workers'
 19 compensation insurers' accident prevention services and derived from
 20 Initiated Act 4 of 1948, is amended to read as follows:

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