

CHAPTER NO. 192

HOUSE BILL NO. 619

By Representative Kisber

Substituted for: Senate Bill No. 1188

By Senator Clabough

AN ACT to amend Tennessee Code Annotated, Title 4; Title 50 and Title 56 and Public Chapter 944 of the Acts of 1996, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-130(e), is amended by deleting the language " The special committee shall terminate on June 30, 2001." And by substituting instead the language " The special committee shall terminate on June 30, 2007".

SECTION 2. Public Chapter 944 of the Acts of 1996 is amended in Section 43(a) by deleting the language:

(a) On July 1, 2001, the provisions of Sections 31 through 42, inclusive, of this act are hereby repealed and the provisions of Tennessee Code Annotated, Title 50 and Title 56, amended by such sections are hereby revived and be reenacted in the form and language in which they existed immediately prior to the enactment of this act.

And by substituting instead the following:

(a) On July 1, 2007, the provisions of Sections 31 through 42, inclusive, of this act are hereby repealed and the provisions of Tennessee Code Annotated, Title 50 and Title 56, amended by such sections are hereby revived and reenacted in the form and language in which they existed immediately prior to the enactment of this act.

SECTION 3. Tennessee Code Annotated, Section 56-5-306 (c), is amended by inserting, between the phrase "fifteen (15) days after the effective date" and before the punctuation mark ".", the following phrase: ", and at least annually thereafter on March 1".

SECTION 4. Tennessee Code Annotated, Section 56-5-302 (13), is amended by inserting, after the phrase "other than loss expense and loss adjustment expense", the following phrase ", all other applicable rating factors, including but not limited to, schedule rating, experience rating and small deductible credits,".

SECTION 5. Tennessee Code Annotated Section 56-5-306 is amended by adding a new subsection which shall read as follows: "

All multipliers filed pursuant to subsection (c) shall be actuarially justified and shall be certified by a member in good standing of the Casualty Actuarial Society.

SECTION 6. Tennessee Code Annotated, Section 56-5-314 (c)(3), is amended by deleting the phrase "If, by July 1, 2001, the commissioner determines that the membership of

the assigned risk pool, created pursuant to Section 56-5-314(c), exceeds ten percent (10%)”, and by substituting therefor the following: “If, by July 1, 2003, the commissioner determines that the membership of the assigned risk pool, created pursuant to Section 56-5-314(c), exceeds fifteen percent (15%)”.

SECTION 7. Tennessee Code Annotated, Section 56-5-314 (c)(4), is amended by deleting the following from the first sentence of the subsection:

“on July 1, 2001,”

SECTION 8. Tennessee Code Annotated, Section 50-6-118(a)(5), is amended by deleting the subdivision in its entirety.

SECTION 9. Tennessee Code Annotated, Section 50-6-204(a)(4)(B) is amended by adding the following language as the final sentence of the subdivision:

The provisions of this subdivision shall not apply to workers’ compensation self-insurer pools established pursuant to §50-6-405(c)(1).

SECTION 10. Tennessee Code Annotated, Section 50-6-204(a)(4)(C), is amended by deleting the subdivision in its entirety.

SECTION 11. Tennessee Code Annotated, Section 50-6-121(a)(2), is amended by deleting the first sentence in its entirety and by substituting instead the following:

The Governor shall also appoint six (6) nonvoting members of the council: one from local government, one(1) from an insurance company, one(1) health care provider and three (3) attorneys.

SECTION 12. Tennessee Code Annotated, Section 50-6-121(a)(2), is further amended by deleting the sixth, seventh, and eighth sentences in their entirety and by substituting instead the following:

The Governor shall appoint one (1) nonvoting attorney member from a list of three (3) names submitted by the Tennessee Trial Lawyers Association, who shall primarily represent injured workers’ compensation claimants. The Governor shall also appoint one (1) nonvoting attorney member from a list of three (3) names submitted by the Tennessee Defense Lawyers Association, who shall primarily represent employers or workers’ compensation insurers. The Governor shall also appoint one (1) nonvoting attorney member from a list of three (3) names submitted by the Tennessee Bar Association.

SECTION 13. Tennessee Code Annotated, Section 56-5-322, is hereby deleted.

SECTION 14. Tennessee Code Annotated, Section 56-5-302 (13), is amended by deleting the phrase, “as permitted by § 56-5-322,”.

SECTION 15. Tennessee Code Annotated, Section 56-5-306 (c), is amended by deleting the last sentence in such subsection in its entirety.

SECTION 16. Tennessee Code Annotated, Section 50-6-238(d), is amended by deleting the subsection in its entirety and substituting instead the following:

(1) In addition to any other penalty provided by law, if an insurer, self-insured employer or self-insured pool fails to comply with an order issued by a specialist within fifteen (15) calendar days of receipt of the order, the commissioner of labor and workforce development shall assess a penalty in the amount of ten thousand dollars (\$10,000.00). Notification of the assessed penalty shall be sent to the insurer, self-insured employer or self-insured pool by facsimile, electronic mail or certified mail. Such insurer, self-insured employer or self-insured pool shall have five (5) calendar days to respond and prove that it has complied with the specialist's order. If satisfactory proof of compliance is not received by the twenty-first (21st) calendar day after receipt of the order, additional penalties in the amount of one thousand dollars (\$1,000.00) per day shall begin to accrue on the twenty-first (21st) day. The insurer, self-insured employer or self-insured pool shall have the right to appeal the penalty assessed by the commissioner of labor and workforce development for failure to comply with an order issued by a specialist pursuant to the Uniform Administrative Procedures Act, compiled at title 4, chapter 5.

(2) In addition to any other penalty provided by law, if an insurer, self-insured employer or self-insured pool fails to comply with an order issued by a specialist within thirty (30) days of receipt of the order, the commissioner of labor and workforce development shall notify the commissioner of commerce and insurance of such failure to comply. The commissioner of commerce and insurance may consider the continued failure to comply with the order of the specialist as a violation of title 56, chapter 8, which subjects the insurer to the penalty provisions of 56-8-109, and may consider any failure by a self-insured employer or self-insured pool to comply with the order of the specialist sufficient grounds to revoke the employer's status as a self-insured employer or self-insured pool pursuant to 50-6-405.

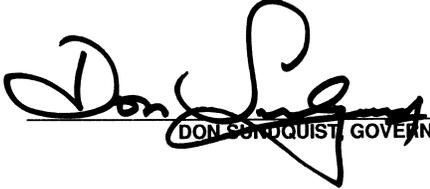
SECTION 17. This act shall take effect July 1, 2001, the public welfare requiring it.

PASSED: May 2, 2001


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 10th day of May 2001


DON SUNDQUIST, GOVERNOR