

FIRST REGULAR SESSION

HOUSE BILL NO. 506

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JOHNSON (47).

Read 1st time February 19, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1754L.011

AN ACT

To repeal sections 287.690 and 287.715, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 287.690 and 287.715, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 287.690 and 287.715, to read as follows:

287.690. 1. [Prior to December 31, 1993,] For the purpose of providing for the expense
2 of administering this chapter and for the purpose set out in subsection 2 of this section, every
3 person, partnership, association, corporation, whether organized under the laws of this or any
4 other state or country, the state of Missouri, including any of its departments, divisions, agencies,
5 commissions, and boards or any political subdivisions of the state who self-insure or hold
6 themselves out to be any part self-insured, company, mutual company, the parties to any
7 interindemnity contract, or other plan or scheme, and every other insurance carrier, insuring
8 employers in this state against liability for personal injuries to their employees, or for death
9 caused thereby, under this chapter, shall pay, as provided in this chapter, tax upon the net
10 deposits, net premiums or net assessments received, whether in cash or notes in this state, or on
11 account of business done in this state, for such insurance in this state at the rate of two percent
12 in lieu of all other taxes on such net deposits, net premiums or net assessments, which amount
13 of taxes shall be assessed and collected as herein provided. Beginning October 31, [1993] **2003**,
14 and every year thereafter, the director of the division of workers' compensation shall estimate the
15 amount of revenue required to administer this chapter and the director shall determine the rate
16 of tax to be paid in the following calendar year pursuant to this section commencing with the

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is new proposed language.

17 calendar year beginning on January 1, [1994] **2004**. If the balance of the fund estimated to be
18 on hand on December thirty-first of the year each tax rate determination is made is less than one
19 hundred [ten] percent of the previous year's expenses plus any additional revenue required due
20 to new statutory requirements given to the division by the general assembly, then the director
21 shall impose a tax not to exceed two percent in lieu of all other taxes on net deposits, net
22 premiums or net assessments, rounded up to the nearest one-half of a percentage point, which
23 amount of taxes shall be assessed and collected as herein provided. **For any year in which**
24 **collections from the maximum two percent tax rate are insufficient to meet the fund**
25 **balance requirement of one hundred percent of the previous year's expenses, an audit shall**
26 **be conducted by the state auditor of the division of workers' compensation. A report of**
27 **such audit shall be submitted to the speaker of the house of representatives and the**
28 **president pro tempore of the senate upon its completion.** The net premium equivalent for
29 individual self-insured employers and any group of political subdivisions of this state qualified
30 to self-insure their liability pursuant to this chapter as authorized by section 537.620, RSMo,
31 shall be based on average rate classifications calculated by the department of insurance as taken
32 from premium rates filed by the twenty insurance companies providing the greatest volume of
33 workers' compensation insurance coverage in this state. For employers qualified to self-insure
34 their liability pursuant to this chapter, the rates filed by such group of employers in accordance
35 with subsection 2 of section 287.280 shall be the net premium equivalent. Every entity required
36 to pay the tax imposed pursuant to this section and section 287.730 shall be notified by the
37 division of workers' compensation within ten calendar days of the date of the determination of
38 the rate of tax to be imposed for the following year. Net premiums, net deposits or net
39 assessments are defined as gross premiums, gross deposits or gross assessments less canceled
40 or returned premiums, premium deposits or assessments and less dividends or savings, actually
41 paid or credited.

42 2. After January 1, 1994, the director of the division shall make one or more loans to the
43 Missouri employers mutual insurance company in an amount not to exceed an aggregate amount
44 of five million dollars from the fund maintained to administer this chapter for start-up funding
45 and initial capitalization of the company. The board of the company shall make application to
46 the director for the loans, stating the amount to be loaned to the company. The loans shall be for
47 a term of five years and, at the time the application for such loans is approved by the director,
48 shall bear interest at the annual rate based on the rate for linked deposit loans as calculated by
49 the state treasurer pursuant to section 30.758, RSMo.

287.715. 1. For the purpose of providing for revenue for the second injury fund, every
2 authorized self-insurer, and every workers' compensation policyholder insured pursuant to the
3 provisions of this chapter, shall be liable for payment of an annual surcharge in accordance with

4 the provisions of this section. The annual surcharge imposed under this section shall apply to
5 all workers' compensation insurance policies and self-insurance coverages which are written or
6 renewed on or after April 26, 1988, including the state of Missouri, including any of its
7 departments, divisions, agencies, commissions, and boards or any political subdivisions of the
8 state who self-insure or hold themselves out to be any part self-insured. Notwithstanding any
9 law to the contrary, the surcharge imposed pursuant to this section shall not apply to any
10 reinsurance or retrocessional transaction.

11 2. [Prior to December 31, 1993, the director of the division of workers' compensation
12 shall estimate the amount of benefits payable from the second injury fund during the ensuing
13 calendar year, and shall calculate the total amount of the annual surcharge to be imposed during
14 the ensuing calendar year upon all workers' compensation holders and authorized self-insurers.
15 The amount of the annual surcharge to be imposed upon all policyholders and self-insurers shall
16 equal the moneys estimated by the director of the division of workers' compensation to be
17 payable from the second injury fund during the calendar year for which the annual surcharge is
18 to be imposed, except that the surcharge shall not exceed three percent of the policyholder's or
19 authorized self-insurer's workers' compensation net deposits, net premiums or net assessments.]
20 Beginning October 31, [1993] **2003**, and each year thereafter, the director of the division of
21 workers' compensation shall estimate the amount of benefits payable from the second injury fund
22 during the ensuing calendar year and shall calculate the total amount of the annual surcharge to
23 be imposed **during the ensuing calendar year** upon all workers' compensation policyholders
24 and authorized self-insurers. The amount of the annual surcharge percentage to be imposed upon
25 each policyholder and self-insured for the ensuing calendar year commencing with the calendar
26 year beginning on January 1, [1994] **2004**, shall be set at and calculated against a percentage, **not**
27 **to exceed three percent**, of the policyholder's or self-insured's workers' compensation net
28 deposits, net premiums or net assessments for the previous policy year, rounded up to the nearest
29 one-half of a percentage point, that shall generate, as nearly as possible, one hundred [ten]
30 percent of the moneys projected to be paid from the second injury fund in the ensuing calendar
31 year, less any moneys contained in the fund at the end of the previous calendar year. **For any**
32 **year in which collections from the maximum three percent tax rate are insufficient to meet**
33 **the fund balance requirement of one hundred percent of the previous year's expenses, an**
34 **audit shall be conducted by the state auditor of the division of workers' compensation. A**
35 **report of such audit shall be submitted to the speaker of the house of representatives and**
36 **the president pro tempore of the senate upon its completion.** All policyholders and
37 self-insurers shall be notified by the division of workers' compensation within ten calendar days
38 of the determination of the surcharge percent to be imposed for, and paid in, the following
39 calendar year. The net premium equivalent for individual self-insured employers and any group

40 of political subdivisions of this state qualified to self-insure their liability pursuant to this chapter
41 as authorized by section 537.620, RSMo, shall be based on average rate classifications calculated
42 by the department of insurance as taken from premium rates filed by the twenty insurance
43 companies providing the greatest volume of workers' compensation insurance coverage in this
44 state. For employers qualified to self-insure their liability pursuant to this chapter, the rates filed
45 by such group of employers in accordance with subsection 2 of section 287.280 shall be the net
46 premium equivalent. The director may advance funds from the workers' compensation fund to
47 the second injury fund if surcharge collections prove to be insufficient. Any funds advanced
48 from the workers' compensation fund to the second injury fund must be reimbursed by the
49 second injury fund no later than December thirty-first of the year following the advance. The
50 surcharge shall be collected from policyholders by each insurer at the same time and in the same
51 manner that the premium is collected, but no insurer or its agent shall be entitled to any portion
52 of the surcharge as a fee or commission for its collection. The surcharge is not subject to any
53 taxes, licenses or fees.

54 3. All surcharge amounts imposed by this section shall be paid to the Missouri director
55 of revenue and shall be deposited to the credit of the second injury fund.

56 4. Such surcharge amounts shall be paid quarterly by insurers and self-insurers, and
57 insurers shall pay the amounts not later than the thirtieth day of the month following the end of
58 the quarter in which the amount is received from policyholders. **If the director of the division
59 of workers' compensation fails to calculate the surcharge by the thirty-first day of October
60 of any year for the ensuing year, any increase in the surcharge ultimately set by the
61 director shall not be effective for any calendar quarter beginning less than sixty days from
62 the date the director makes such determination.**

63 5. If a policyholder or self-insured fails to make payment of the surcharge or an insurer
64 fails to make timely transfer to the director of revenue of surcharges actually collected from
65 policyholders, as required by this section, a penalty of one-half of one percent of the surcharge
66 unpaid, or untransferred, shall be assessed against the liable policyholder, self-insured or insurer.
67 Penalties assessed under this subsection shall be collected in a civil action by a summary
68 proceeding brought by the director of the division of workers' compensation.