

FIRST REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 384
101ST GENERAL ASSEMBLY

1273H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 287.715, RSMo, and to enact in lieu thereof one new section relating to workers' compensation.

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

Section A. Section 287.715, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.715, to read as follows:

287.715. 1. For the purpose of providing for revenue for the second injury fund, every authorized self-insurer, and every workers' compensation policyholder insured pursuant to the provisions of this chapter, shall be liable for payment of an annual surcharge in accordance with the provisions of this section. The annual surcharge imposed under this section shall apply to all workers' compensation insurance policies and self-insurance coverages which are written or renewed on or after April 26, 1988, including the state of Missouri, including any of its departments, divisions, agencies, commissions, and boards or any political subdivisions of the state who self-insure or hold themselves out to be any part self-insured. Notwithstanding any law to the contrary, the surcharge imposed pursuant to this section shall not apply to any reinsurance or retrocessional transaction.

2. Beginning October 31, 2005, and each year thereafter, the director of the division of workers' compensation shall estimate the amount of benefits payable from the second injury fund during the following calendar year and shall calculate the total amount of the annual surcharge to be imposed during the following calendar year upon all workers' compensation policyholders and authorized self-insurers. The amount of the annual surcharge percentage to be imposed upon each policyholder and self-insured for the following calendar year commencing with the calendar year beginning on January 1, 2006, shall be set at and calculated against a percentage, not to

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 exceed three percent, of the policyholder's or self-insured's workers' compensation net deposits,
19 net premiums, or net assessments for the previous policy year, rounded up to the nearest one-half
20 of a percentage point, that shall generate, as nearly as possible, one hundred ten percent of the
21 moneys to be paid from the second injury fund in the following calendar year, less any moneys
22 contained in the fund at the end of the previous calendar year. All policyholders and self-insurers
23 shall be notified by the division of workers' compensation within ten calendar days of the
24 determination of the surcharge percent to be imposed for, and paid in, the following calendar
25 year. The net premium equivalent for individual self-insured employers shall be based on
26 average rate classifications calculated by the department of commerce and insurance as taken
27 from premium rates filed by the twenty insurance companies providing the greatest volume of
28 workers' compensation insurance coverage in this state. For employers qualified to self-insure
29 their liability pursuant to this chapter, the rates filed by such group of employers in accordance
30 with subsection 4 of section 287.280 shall be the net premium equivalent. Any group of political
31 subdivisions of this state qualified to self-insure their liability pursuant to this chapter as
32 authorized by section 537.620 may choose either the average rate classification method or the
33 filed rate method, provided that the method used may only be changed once without receiving
34 the consent of the director of the division of workers' compensation. The director may advance
35 funds from the workers' compensation fund to the second injury fund if surcharge collections
36 prove to be insufficient. Any funds advanced from the workers' compensation fund to the second
37 injury fund must be reimbursed by the second injury fund no later than December thirty-first of
38 the year following the advance. The surcharge shall be collected from policyholders by each
39 insurer at the same time and in the same manner that the premium is collected, but no insurer or
40 its agent shall be entitled to any portion of the surcharge as a fee or commission for its collection.
41 The surcharge is not subject to any taxes, licenses or fees.

42 3. All surcharge amounts imposed by this section shall be deposited to the credit of the
43 second injury fund.

44 4. Such surcharge amounts shall be paid quarterly by insurers and self-insurers, and
45 insurers shall pay the amounts not later than the thirtieth day of the month following the end of
46 the quarter in which the amount is received from policyholders. If the director of the division
47 of workers' compensation fails to calculate the surcharge by the thirty-first day of October of any
48 year for the following year, any increase in the surcharge ultimately set by the director shall not
49 be effective for any calendar quarter beginning less than sixty days from the date the director
50 makes such determination.

51 5. If a policyholder or self-insured fails to make payment of the surcharge or an insurer
52 fails to make timely transfer to the division of surcharges actually collected from policyholders,
53 as required by this section, a penalty of one-half of one percent of the surcharge unpaid, or

54 untransferred, shall be assessed against the liable policyholder, self-insured or insurer. Penalties
55 assessed under this subsection shall be collected in a civil action by a summary proceeding
56 brought by the director of the division of workers' compensation.

57 6. Notwithstanding subsection 2 of this section to the contrary, the director of the
58 division of workers' compensation shall collect a supplemental surcharge not to exceed three
59 percent for calendar years 2014 to ~~[2024]~~ **2024** of the policyholder's or self-insured's workers'
60 compensation net deposits, net premiums, or net assessments for the previous policy year,
61 rounded up to the nearest one-half of a percentage point. All policyholders and self-insurers
62 shall be notified by the division of the supplemental surcharge percentage to be imposed for such
63 period of time as part of the notice provided in subsection 2 of this section. The provisions of
64 this subsection shall expire on December 31, ~~[2024]~~ **2024**.

65 7. Funds collected under the provisions of this chapter shall be the sole funding source
66 of the second injury fund.

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