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By: **Senator Bromwell**

Introduced and read first time: February 1, 2002

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Workers' Compensation - Workers' Compensation Commission - Budget**  
3                                   **Process**

4 FOR the purpose of requiring the Workers' Compensation Commission to calculate a  
5 certain tax before each fiscal year in a certain manner; establishing a Workers'  
6 Compensation Fund; requiring the Commission to pay money collected from a  
7 certain tax to the Fund; establishing an Advisory Committee on the budget of  
8 the Commission; providing for the membership of the Committee; requiring the  
9 Governor to appoint certain members to the Committee; providing for the  
10 appointment of the chairman of the Committee; providing for the terms of the  
11 members of the Committee; prohibiting a member of the Advisory Committee  
12 from receiving compensation; requiring the Commission to provide certain  
13 resources to the Committee; requiring the Commission to prepare a certain  
14 tentative operating budget for the Committee; requiring the Committee to  
15 review a certain budget and make recommendations to the Commission;  
16 requiring the Commission to take certain information into consideration prior to  
17 submitting a budget to the Governor; requiring the Governor to take certain  
18 information into consideration; requiring the Committee to submit a certain  
19 report to the Governor and the General Assembly; providing for the composition  
20 of the Fund; providing for the purpose of the Fund; requiring the costs of the  
21 Commission to be paid out of the State budget; providing for expenditures of the  
22 Fund; providing for the disposition of certain money in the event of a surplus;  
23 providing for an additional assessment in certain circumstances; providing that  
24 the State Treasurer is the custodian of the Fund; requiring the State Treasurer  
25 to deposit certain money into the Fund; providing that the Fund is a certain type  
26 of fund; prohibiting the use of money from the Fund for certain purposes;  
27 requiring the Commission to pay certain money to the General Fund; and  
28 generally relating to workers' compensation.

29 BY adding to  
30 Article - Labor and Employment  
31 Section 9-317, 9-318, and 9-319  
32 Annotated Code of Maryland  
33 (1999 Replacement Volume and 2001 Supplement)

1 BY repealing and reenacting, with amendments,  
2 Article - Labor and Employment  
3 Section 9-316  
4 Annotated Code of Maryland  
5 (1999 Replacement Volume and 2001 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article - Labor and Employment**

9 9-316.

10 (a) (1) In this section the following words have the meanings indicated.

11 (2) "Insured payroll" means the payroll of an employer who:

12 (i) is subject to this title; and

13 (ii) has obtained insurance for its covered employees from an  
14 insurer.

15 (3) "Insurer" means:

16 (i) a stock corporation or mutual association that is authorized  
17 under the Insurance Article to provide workers' compensation insurance in the State;

18 (ii) the Injured Workers' Insurance Fund;

19 (iii) a governmental self-insurance group that meets the  
20 requirements of § 9-404 of this title;

21 (iv) a self-insurance group of private employers that meets the  
22 requirements of Title 25, Subtitle 3 of the Insurance Article; or

23 (v) an individual employer that self-insures in accordance with §  
24 9-405 of this title.

25 (b) Out of money appropriated for the maintenance of the Commission, the  
26 State shall pay the salaries, administrative expenses, and all other expenses of the  
27 Commission, including:

28 (1) the costs of the administration of the Occupational Safety and Health  
29 Program by the Commissioner of Labor and Industry under Title 5 of this article; and

30 (2) any cost incurred by the State, including contribution as an employer,  
31 because of the participation of a Commissioner in the Judges' Retirement System of  
32 the State of Maryland.

1 (c) The Commission shall assess against and collect from each insurer a tax  
2 for the maintenance of the Commission.

3 (d) (1) [For] BEFORE each fiscal year, [as early as practicable in the fiscal  
4 year,] the Commission shall calculate for each insurer the tax for the maintenance of  
5 the Commission in accordance with this section.

6 (2) First, the Commission shall calculate the assessment percentage by:

7 (i) determining the appropriation for the expenses of the  
8 Commission for the current fiscal year as:

9 1. [increased by any amount the actual expenditures of the  
10 Commission for the previous fiscal year exceeded the appropriation for that fiscal  
11 year; or] DECREASING BY AN AMOUNT EQUAL TO THE REVENUES RECEIVED DURING  
12 THE CURRENT FISCAL YEAR UNDER § 9-319(A)(2) OF THIS SUBTITLE;

13 2. [decreased] DECREASING by any amount the actual  
14 expenditures for the [previous] CURRENT fiscal year THAT were less than the  
15 appropriation for that fiscal year; and

16 3. ADJUSTING FOR ANY VARIANCES BETWEEN THE  
17 PROJECTED AND ACTUAL EXPENDITURES FOR THE PREVIOUS FISCAL YEAR; AND

18 (ii) dividing the amount determined under (i) of this paragraph by  
19 the total insured payroll of all insurers.

20 (3) Then, the Commission shall apply the assessment percentage  
21 determined under paragraph (2) of this subsection to the insured payroll of each  
22 insurer.

23 (e) Payment of the tax assessed under this section may be enforced by a civil  
24 action in the name of the State.

25 (f) The Commission shall pay the money that it collects for the tax under this  
26 section into the WORKERS' COMPENSATION FUND IN THE State Treasury  
27 ESTABLISHED UNDER § 9-319 OF THIS SUBTITLE to reimburse the State for the  
28 expense of administering this title.

29 (g) The Commission may:

30 (1) examine payrolls and require reports from employers and insurers as  
31 may be reasonable and necessary to carry out this section; and

32 (2) adopt regulations to carry out this section.

33 9-317.

34 (A) THERE IS AN ADVISORY COMMITTEE ON THE BUDGET OF THE  
35 COMMISSION.

1 (B) (1) THE ADVISORY COMMITTEE CONSISTS OF 12 MEMBERS, APPOINTED  
2 BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

3 (2) EACH MEMBER APPOINTED BY THE GOVERNOR SERVES AT THE  
4 PLEASURE OF THE GOVERNOR.

5 (3) THE GOVERNOR SHALL APPOINT A CHAIRMAN FROM AMONG THE  
6 MEMBERS OF THE ADVISORY COMMITTEE.

7 (C) IN MAKING THE APPOINTMENTS, THE GOVERNOR SHALL:

8 (1) ENSURE THAT VARIOUS DISCIPLINES WITHIN THE WORKERS'  
9 COMPENSATION COMMUNITY ARE REPRESENTED, INCLUDING:

10 (I) BUSINESS;

11 (II) LABOR;

12 (III) THE INSURANCE INDUSTRY;

13 (IV) THE VOCATIONAL REHABILITATION INDUSTRY;

14 (V) THE MEDICAL PROFESSION;

15 (VI) CLAIMANTS' BAR; AND

16 (VII) DEFENSE BAR; AND

17 (2) CONSIDER, IN CONSULTATION WITH THE CHAIRMAN, THE  
18 RECOMMENDATIONS MADE BY REPRESENTATIVES OF EACH OF THESE DISCIPLINES.

19 (D) (1) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

20 (2) THE TERMS OF MEMBERS ARE STAGGERED.

21 (3) A MEMBER MAY BE REAPPOINTED.

22 (4) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A  
23 SUCCESSOR IS APPOINTED AND QUALIFIES.

24 (5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
25 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
26 QUALIFIES.

27 (E) MEMBERS OF THE ADVISORY COMMITTEE SHALL SERVE WITHOUT  
28 COMPENSATION, BUT EACH MEMBER SHALL BE REIMBURSED FOR NECESSARY  
29 TRAVEL AND OTHER EXPENSES INCURRED IN THE PERFORMANCE OF OFFICIAL  
30 COMMITTEE DUTIES IN ACCORDANCE WITH THE STANDARD STATE TRAVEL  
31 REGULATIONS.

1 (F) THE COMMISSION SHALL PROVIDE MEETING SPACE, BUDGET ANALYSIS,  
2 AND STAFF SUPPORT FOR THE ADVISORY COMMITTEE.

3 9-318.

4 (A) BY SEPTEMBER 1 OF EACH YEAR, THE COMMISSION SHALL PREPARE A  
5 TENTATIVE OPERATING BUDGET FOR THE NEXT FISCAL YEAR AND SUBMIT IT TO THE  
6 ADVISORY COMMITTEE ESTABLISHED UNDER § 9-317 OF THIS SUBTITLE.

7 (B) BY NOVEMBER 1 OF EACH YEAR, THE ADVISORY COMMITTEE SHALL  
8 REVIEW THE TENTATIVE OPERATING BUDGET AND MAKE RECOMMENDATIONS TO  
9 THE COMMISSION AS TO ANY CHANGES IN ANY BUDGET AREA OF THE COMMISSION.

10 (C) THE COMMISSION SHALL GIVE DUE CONSIDERATION TO THE  
11 RECOMMENDATIONS OF THE ADVISORY COMMITTEE PRIOR TO SUBMITTING THE  
12 COMMISSION'S FINAL BUDGET TO THE GOVERNOR.

13 (D) BY DECEMBER 1 OF EACH YEAR, THE ADVISORY COMMITTEE SHALL  
14 SUBMIT A REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE  
15 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE RECOMMENDATIONS  
16 THAT IT MADE TO THE COMMISSION ON THE COMMISSION'S NEXT FISCAL YEAR  
17 BUDGET.

18 (E) THE GOVERNOR SHALL GIVE DUE CONSIDERATION TO THE  
19 RECOMMENDATIONS OF THE ADVISORY COMMITTEE.

20 9-319.

21 (A) THERE IS A WORKERS' COMPENSATION FUND THAT CONSISTS OF:

22 (1) ALL REVENUE RECEIVED THROUGH THE IMPOSITION AND  
23 COLLECTION OF THE ASSESSMENT TAX UNDER § 9-316 OF THIS SUBTITLE;

24 (2) INCOME FROM INVESTMENTS THAT THE TREASURER MAKES FOR  
25 THE STATE FUND; AND

26 (3) ANY OTHER FEE, EXAMINATION ASSESSMENT, OR REVENUE  
27 RECEIVED BY THE COMMISSION UNDER THIS TITLE.

28 (B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE COMMISSION  
29 SHALL PAY ALL FINES AND PENALTIES COLLECTED BY THE COMMISSION UNDER  
30 THIS TITLE INTO THE GENERAL FUND OF THE STATE.

31 (C) THE PURPOSE OF THE FUND IS TO PAY ALL THE COSTS AND EXPENSES  
32 INCURRED BY THE COMMISSION THAT ARE RELATED TO THE OPERATION OF THE  
33 COMMISSION, INCLUDING:

34 (1) EXPENDITURES AUTHORIZED UNDER THIS TITLE;

35 (2) THE COST OF STATE EMPLOYEES SPECIFICALLY ASSIGNED TO THE  
36 COMMISSION;

1           (3)     REASONABLE EXPENSES INCURRED BY THE ADVISORY COMMITTEE  
2 ON THE BUDGET OF THE COMMISSION ESTABLISHED UNDER § 9-317 OF THIS  
3 SUBTITLE; AND

4           (4)     ANY OTHER EXPENSE AUTHORIZED IN THE STATE BUDGET.

5     (D)    (1)     ALL THE COSTS AND EXPENSES OF THE COMMISSION SHALL BE  
6 INCLUDED IN THE STATE BUDGET.

7           (2)     ANY EXPENDITURES FROM THE FUND TO COVER COSTS AND  
8 EXPENSES OF THE COMMISSION MAY ONLY BE MADE:

9                   (I)     WITH AN APPROPRIATION FROM THE FUND APPROVED BY THE  
10 GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

11                   (II)    BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §  
12 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

13           (3)    (I)     IF, IN ANY GIVEN FISCAL YEAR, THE AMOUNT OF THE REVENUE  
14 COLLECTED BY THE COMMISSION AND DEPOSITED INTO THE FUND EXCEEDS THE  
15 ACTUAL APPROPRIATION FOR THE COMMISSION, PLUS AN ADDITIONAL 1 PERCENT  
16 PROVISION FOR UNANTICIPATED EXPENDITURES OVER THE ACTUAL  
17 APPROPRIATION FOR THE COMMISSION, THE EXCESS AMOUNT SHALL BE CARRIED  
18 FORWARD WITHIN THE FUND FOR THE PURPOSE OF REDUCING THE ASSESSMENT  
19 FEE IMPOSED BY THE COMMISSION FOR THE FOLLOWING FISCAL YEAR.

20                   (II)    IF, IN ANY GIVEN YEAR, THE AMOUNT OF REVENUE COLLECTED  
21 BY THE COMMISSION AND DEPOSITED INTO THE FUND IS INSUFFICIENT TO COVER  
22 THE EXPENDITURES OF THE COMMISSION BECAUSE OF AN UNFORESEEN  
23 EMERGENCY AND EXPENDITURES ARE MADE IN ACCORDANCE WITH THE BUDGET  
24 AMENDMENT PROCEDURE PROVIDED FOR IN § 7-209 OF THE STATE FINANCE AND  
25 PROCUREMENT ARTICLE, AN ADDITIONAL ASSESSMENT FOR THE EXPENDITURES  
26 MAY BE MADE.

27     (E)    (1)     THE STATE TREASURER IS THE CUSTODIAN OF THE FUND.

28           (2)     THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM  
29 THE COMMISSION INTO THE FUND.

30     (F)    (1)     THE FUND IS A CONTINUING, NONLAPSING FUND AND IS NOT  
31 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AND MAY  
32 NOT BE DEEMED A PART OF THE GENERAL FUND OF THE STATE.

33           (2)     UNLESS OTHERWISE PROVIDED BY LAW, NO PART OF THE FUND MAY  
34 REVERT OR BE CREDITED TO:

35                   (I)     THE GENERAL FUND OF THE STATE; OR

36                   (II)    A SPECIAL FUND OF THE STATE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2002.