
By: **Senator Bromwell**
Introduced and read first time: February 1, 2002
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 13, 2002

CHAPTER _____

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.

1 BY adding to
2 Article - Labor and Employment
3 Section 9-317, 9-318, and 9-319
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2001 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Labor and Employment
8 Section 9-316
9 Annotated Code of Maryland
10 (1999 Replacement Volume and 2001 Supplement)

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

13 **Article - Labor and Employment**

14 9-316.

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

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

17 (i) is subject to this title; and

18 (ii) has obtained insurance for its covered employees from an
19 insurer.

20 (3) "Insurer" means:

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

23 (ii) the Injured Workers' Insurance Fund;

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

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

28 (v) an individual employer that self-insures in accordance with §
29 9-405 of this title.

30 (b) Out of money appropriated for the maintenance of the Commission, the
31 State shall pay the salaries, administrative expenses, and all other expenses of the
32 Commission, including:

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

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

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

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

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

12 (i) determining the appropriation for the expenses of the
13 Commission for the ~~current~~ NEXT fiscal year as:

14 1. [increased by any amount the actual expenditures of the
15 Commission for the previous fiscal year exceeded the appropriation for that fiscal
16 year; or] DECREASING BY AN AMOUNT EQUAL TO THE REVENUES RECEIVED DURING
17 THE CURRENT FISCAL YEAR UNDER § 9-319(A)(2) AND (3) OF THIS SUBTITLE;

18 2. [decreased] DECREASING by any amount the ~~actual~~
19 expenditures for the [previous] CURRENT fiscal year THAT were EXPENDITURES
20 PROJECTED TO THE END OF THE CURRENT FISCAL YEAR THAT ARE EXPECTED TO BE
21 less than the appropriation for that fiscal year; and

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

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

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

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

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

35 (g) The Commission may:

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

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

4 9-317.

5 (A) THERE IS AN ADVISORY COMMITTEE ON THE BUDGET OF THE
6 COMMISSION.

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

9 (2) EACH MEMBER APPOINTED BY THE GOVERNOR SERVES AT THE
10 PLEASURE OF THE GOVERNOR.

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

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

14 (1) ENSURE THAT EACH GEOGRAPHIC REGION OF THE STATE IS
15 REPRESENTED;

16 ~~(2)~~ (2) ENSURE THAT VARIOUS DISCIPLINES WITHIN THE WORKERS'
17 COMPENSATION COMMUNITY ARE REPRESENTED, INCLUDING:

18 (I) BUSINESS;

19 (II) LABOR;

20 (III) THE INSURANCE INDUSTRY;

21 (IV) THE VOCATIONAL REHABILITATION INDUSTRY;

22 (V) THE MEDICAL PROFESSION;

23 (VI) CLAIMANTS' BAR; AND

24 (VII) DEFENSE BAR; AND

25 ~~(2)~~ (3) CONSIDER, IN CONSULTATION WITH THE CHAIRMAN, THE
26 RECOMMENDATIONS MADE BY REPRESENTATIVES OF EACH OF THESE DISCIPLINES.

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

28 (2) THE TERMS OF MEMBERS ARE STAGGERED.

29 (3) A MEMBER MAY BE REAPPOINTED.

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

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

6 (E) MEMBERS OF THE ADVISORY COMMITTEE SHALL SERVE WITHOUT
7 COMPENSATION, BUT EACH MEMBER SHALL BE REIMBURSED FOR NECESSARY
8 TRAVEL AND OTHER EXPENSES INCURRED IN THE PERFORMANCE OF OFFICIAL
9 COMMITTEE DUTIES IN ACCORDANCE WITH THE STANDARD STATE TRAVEL
10 REGULATIONS.

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

13 9-318.

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

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

20 (C) THE COMMISSION SHALL GIVE DUE CONSIDERATION TO THE
21 RECOMMENDATIONS OF THE ADVISORY COMMITTEE PRIOR TO SUBMITTING THE
22 COMMISSION'S FINAL BUDGET TO THE GOVERNOR.

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

28 (E) THE GOVERNOR SHALL GIVE DUE CONSIDERATION TO THE
29 RECOMMENDATIONS OF THE ADVISORY COMMITTEE.

30 9-319.

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

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

34 (2) INCOME FROM INVESTMENTS THAT THE TREASURER MAKES FOR
35 THE STATE FUND; AND

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

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

6 (C) THE PURPOSE OF THE FUND IS TO PAY ~~ALL~~:

7 (1) THE COSTS AND EXPENSES INCURRED BY THE COMMISSION THAT
8 ARE RELATED TO THE OPERATION OF THE COMMISSION, INCLUDING:

9 ~~(1)~~ (I) EXPENDITURES AUTHORIZED UNDER THIS TITLE;

10 ~~(2)~~ (II) THE COST OF STATE EMPLOYEES SPECIFICALLY ASSIGNED TO
11 THE COMMISSION; AND

12 ~~(3)~~ (III) REASONABLE EXPENSES INCURRED BY THE ADVISORY
13 COMMITTEE ON THE BUDGET OF THE COMMISSION ESTABLISHED UNDER § 9-317 OF
14 THIS SUBTITLE; AND

15 ~~(4)~~ (2) ANY OTHER EXPENSE AUTHORIZED IN THE STATE BUDGET,
16 INCLUDING COSTS SPECIFIED UNDER § 9-315 OF THIS SUBTITLE.

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

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

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

23 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §
24 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

25 (3) (I) IF, IN ANY GIVEN FISCAL YEAR, THE AMOUNT OF THE REVENUE
26 COLLECTED BY THE COMMISSION AND DEPOSITED INTO THE FUND EXCEEDS THE
27 ACTUAL APPROPRIATION FOR THE COMMISSION, PLUS AN ADDITIONAL 1 PERCENT
28 PROVISION FOR UNANTICIPATED EXPENDITURES OVER THE ACTUAL
29 APPROPRIATION FOR THE COMMISSION, THE EXCESS AMOUNT SHALL BE CARRIED
30 FORWARD WITHIN THE FUND FOR THE PURPOSE OF REDUCING THE ASSESSMENT
31 FEE IMPOSED BY THE COMMISSION FOR THE FOLLOWING FISCAL YEAR.

32 (II) IF, IN ANY GIVEN YEAR, THE AMOUNT OF REVENUE COLLECTED
33 BY THE COMMISSION AND DEPOSITED INTO THE FUND IS INSUFFICIENT TO COVER
34 THE EXPENDITURES OF THE COMMISSION BECAUSE OF AN UNFORESEEN
35 EMERGENCY AND EXPENDITURES ARE MADE IN ACCORDANCE WITH THE BUDGET
36 AMENDMENT PROCEDURE PROVIDED FOR IN § 7-209 OF THE STATE FINANCE AND

1 PROCUREMENT ARTICLE, AN ADDITIONAL ASSESSMENT FOR THE EXPENDITURES
2 MAY BE MADE.

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

4 (2) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM
5 THE COMMISSION INTO THE FUND.

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

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

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

12 (II) A SPECIAL FUND OF THE STATE.

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