

SECOND REGULAR SESSION

SENATE BILL NO. 932

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

5246S.011

KRISTINA MARTIN, Secretary

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
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 287.690 and 287.715, to read as follows:

287.690. Prior to December 31, 1993, for the purpose
2 of providing for the expense of administering this chapter,
3 every person, partnership, association, corporation, whether
4 organized under the laws of this or any other state or
5 country, the state of Missouri, including any of its
6 departments, divisions, agencies, commissions, and boards or
7 any political subdivisions of the state who self-insure or
8 hold themselves out to be any part self-insured, company,
9 mutual company, the parties to any interindemnity contract,
10 or other plan or scheme, and every other insurance carrier,
11 insuring employers in this state against liability for
12 personal injuries to their employees, or for death caused
13 thereby, under this chapter, shall pay, as provided in this
14 chapter, tax upon the net deposits, net premiums or net
15 assessments received, whether in cash or notes in this
16 state, or on account of business done in this state, for
17 such insurance in this state at the rate of two percent in

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

lieu of all other taxes on such net deposits, net premiums or net assessments, which amount of taxes shall be assessed and collected as herein provided. Beginning October 31, 1993, and every year thereafter, the director of the division of workers' compensation shall estimate the amount of revenue required to administer this chapter and the director shall determine the rate of tax to be paid in the following calendar year pursuant to this section commencing with the calendar year beginning on January 1, 1994. If the balance of the fund estimated to be on hand on December thirty-first of the year each tax rate determination is made is less than one hundred ten percent of the previous year's expenses plus any additional revenue required due to new statutory requirements given to the division by the general assembly, then the director shall impose a tax not to exceed two percent in lieu of all other taxes on net deposits, net premiums or net assessments, rounded up to the nearest [one-half] **one-tenth** of a percentage point, which amount of taxes shall be assessed and collected as herein provided. The net premium equivalent for individual self-insured employers shall be based on average rate classifications calculated by the department of commerce and insurance as taken from premium rates filed by the twenty insurance companies providing the greatest volume of workers' compensation insurance coverage in this state. For employers qualified to self-insure their liability pursuant to this chapter, the rates filed by such group of employers in accordance with subsection 4 of section 287.280 shall be the net premium equivalent. Any group of political subdivisions of this state qualified to self-insure their liability pursuant to this chapter as authorized by section 537.620 may choose either the average rate classification method or the filed

50 rate method, provided that the method used may only be
51 changed once without receiving the consent of the director
52 of the division of workers' compensation. Every entity
53 required to pay the tax imposed pursuant to this section and
54 section 287.730 shall be notified by the division of
55 workers' compensation within ten calendar days of the date
56 of the determination of the rate of tax to be imposed for
57 the following year. Net premiums, net deposits or net
58 assessments are defined as gross premiums, gross deposits or
59 gross assessments less cancelled or returned premiums,
60 premium deposits or assessments and less dividends or
61 savings, actually paid or credited.

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

17 2. Beginning October 31, 2005, and each year
18 thereafter, the director of the division of workers'
19 compensation shall estimate the amount of benefits payable
20 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 exceed three percent, of the policyholder's or self-insured's workers' compensation net deposits, net premiums, or net assessments for the previous policy year, rounded up to the nearest **[one-half]** **one-tenth** of a percentage point, that shall generate, as nearly as possible, one hundred ten percent of the moneys to be paid from the second injury fund in the following calendar year, less any moneys contained in the fund at the end of the previous calendar year. All policyholders and self-insurers shall be notified by the division of workers' compensation within ten calendar days of the determination of the surcharge percent to be imposed for, and paid in, the following calendar year. The net premium equivalent for individual self-insured employers shall be based on average rate classifications calculated by the department of commerce and insurance as taken from premium rates filed by the twenty insurance companies providing the greatest volume of workers' compensation insurance coverage in this state. For employers qualified to self-insure their liability pursuant to this chapter, the rates filed by such group of employers in accordance with subsection 4 of section 287.280 shall be the net premium equivalent. Any group of political subdivisions of this state qualified to self-insure their liability pursuant to this chapter as authorized by section 537.620 may choose either the average rate classification

method or the filed rate method, provided that the method used may only be changed once without receiving the consent of the director of the division of workers' compensation. The director may advance funds from the workers' compensation fund to the second injury fund if surcharge collections prove to be insufficient. Any funds advanced from the workers' compensation fund to the second injury fund must be reimbursed by the second injury fund no later than December thirty-first of the year following the advance. The surcharge shall be collected from policyholders by each insurer at the same time and in the same manner that the premium is collected, but no insurer or its agent shall be entitled to any portion of the surcharge as a fee or commission for its collection. The surcharge is not subject to any taxes, licenses or fees.

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

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

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

85 of one-half of one percent of the surcharge unpaid, or
86 untransferred, shall be assessed against the liable
87 policyholder, self-insured or insurer. Penalties assessed
88 under this subsection shall be collected in a civil action
89 by a summary proceeding brought by the director of the
90 division of workers' compensation.

91 6. Notwithstanding subsection 2 of this section to the
92 contrary, the director of the division of workers'
93 compensation shall collect a supplemental surcharge not to
94 exceed one percent for calendar years 2014 to 2026 of the
95 policyholder's or self-insured's workers' compensation net
96 deposits, net premiums, or net assessments for the previous
97 policy year, rounded up to the nearest one-quarter of a
98 percentage point. All policyholders and self-insurers shall
99 be notified by the division of the supplemental surcharge
100 percentage to be imposed for such period of time as part of
101 the notice provided in subsection 2 of this section. The
102 provisions of this subsection shall expire on December 31,
103 2026.

104 7. Funds collected under the provisions of this
105 chapter shall be the sole funding source of the second
106 injury fund.

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