

No. 115

AN ACT

SB 659

Amending the act of June 2, 1915 (P.L.762, No.340), entitled "An act providing for the creation and administration of a State Fund for the insurance of compensation for injuries to employes of subscribers thereto; declaring false oaths by the subscribers to be misdemeanors; and providing penalties for the violation thereof," broadening the State Workmen's Insurance Fund's permissible coverages; permitting said Fund to join in an insurance pool; and making editorial corrections.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3, act of June 2, 1915 (P.L.762, No.340), entitled "An act providing for the creation and administration of a State Fund for the insurance of compensation for injuries to employes of subscribers thereto; declaring false oaths by the subscribers to be misdemeanors; and providing penalties for the violation thereof," is amended to read:

Section 3. Certain sums to be paid by employers, as hereinafter provided, are hereby constituted a Fund, to be known as The State Workmen's Insurance Fund, for the purpose of insuring such employers against liability under article three of the Workmen's Compensation Act of 1915, and of assuring the payment of the compensation therein provided *and for the purpose of insuring such employers against liability under the Federal Coal Mine Health and Safety Act of 1969, as amended, Pub.L.91-173, December 30, 1969, 83 Stat. 742 et seq. and of assuring the payment of benefits therein provided and further for the purpose of insuring such employers against liability for all sums such employer shall become legally obligated to pay any employe of his as damages because of bodily injury by accident or disease, including death at any time resulting therefrom, sustained by such employe arising out of and in the course of his employment.* Such Fund shall be administered by the Board, without liability on the part of the State, except as hereinafter provided, beyond the amount thereof, and shall be applied to the payment of such compensation.

Section 2. Section 5 of the act, amended June 10, 1931 (P.L.481, No.151), is amended to read:

Section 5. On or before the first day of October in each year, the said board shall prepare and publish a schedule of premiums or rates of insurance for employers who shall have accepted article three of the Workmen's Compensation Act of 1915; *employers who want insurance against liability under the Federal Coal Mine Health and Safety Act of 1969, as amended, Pub.L.91-173, December 30, 1969, 83 Stat. 742 et seq.; and employers who want insurance against liability for all sums*

such employer shall become legally obligated to pay any employe of his as damages because of bodily injury by accident or disease, including death at any time resulting therefrom, sustained by such employe arising out of and in the course of his employment, which schedule shall be printed and distributed free of charge to such employers as shall make application therefor; and any such employer may, at his option, as hereinafter provided, pay to the fund the amount of the premium appropriate to his business or domestic affairs, and, upon payment thereof, shall thereafter be considered a subscriber to the fund, and shall be insured as hereinafter provided for the year for which such premium is paid; and such insurance shall cover all payments becoming due in any year because of accidents occurring during the year for which said premium is paid.

Section 3. Sections 6 and 14 of the act are amended to read:

Section 6. The said Board shall determine the amount of premiums which the subscribers to the Fund shall pay, and shall fix the premiums for insurance in accordance with the nature of their business and of the various employments of their employes, and the probable risk of injury to their employes therein. And they shall fix the premiums at such an amount as shall be adequate to enable them to pay all sums which may become due and payable to the employes of such subscribers, under the provisions of article three of the Workmen's Compensation Act of 1915; *and under the provisions of the Federal Coal Mine Health and Safety Act of 1969, as amended, Pub.L.91-173, December 30, 1969, 83 Stat. 742 et seq.; and by reason of a subscriber's liability for all sums such subscriber shall become legally obligated to pay any employe of his as damages because of bodily injury by accident or disease, including death at any time resulting therefrom, sustained by such employe arising out of and in the course of his employment*, and to create and maintain the surplus provided in section nine of this act, and to provide an adequate reserve sufficient to carry all policies and claims to maturity. In fixing the premiums payable by any subscriber, the Board may take into account the condition of the plant, work-room, shop, farm, mine, quarry, operation, and all other property or premises of such subscriber, in respect to the safety of those employed therein, as shown by the report of any inspector appointed by the Board or by the Department of Labor and Industry; and they may, from time to time, change the amount of premiums payable by any of the subscribers, as circumstances may require and the condition of the plant, work-room, shop, farm, mine, quarry, operation, or other property or premises of such subscribers, in respect to the safety of their employes, may justify; and they may increase the premiums of any subscriber neglecting to provide safety devices required by law, or disobeying the rules or regulations made by the Board in accordance with the provisions of section fifteen of this act. The insurance of any subscriber shall not be effective until he shall have paid in full the premium so fixed and determined.

Section 14. The said Board shall have the power to reinsure any risk *or join any insurance pool* which they may deem necessary.

Section 4. Section 16 of the act, amended June 10, 1931 (P.L.481, No.151), is amended to read:

Section 16. Any employer who shall have accepted the provisions of article three of the Workmen's Compensation Act of 1915, and who shall desire to become a subscriber to the said fund, for the purpose of insuring therein his liability to those of his employes, or any class thereof, who have accepted the said provisions; *and any employer who wants insurance under the Federal Coal Mine Health and Safety Act of 1969, as amended, Pub.L.91-173, December 30, 1969, 83 Stat. 742 et seq.; and who shall desire to become a subscriber to the said fund for the purpose of insuring therein his liability to those of his employes, or any class thereof coming within the purview of said act; and any employer who shall desire to become a subscriber to the said fund for the purpose of insuring therein his liability for all sums such employer shall become legally obligated to pay any employe of his as damages because of bodily injury by accident or disease, including death at any time resulting therefrom, sustained by such employe arising out of and in the course of his employment,* shall make a written application for such insurance to the said board; in which application, the applicant shall state: (a) The nature of the business or domestic affairs in which insurance is desired; (b) the average number of employes expected to be employed in such business during the year for which insurance is sought, and the average number of employes, if any, engaged in such business during the year previous to the application; (c) the approximate money wages expected to be paid during the year for which insurance is sought, and the money wages paid to such employes during the preceding year; (d) the place where such business is to be transacted; (e) the place where the employer's payroll and books of accounts are kept, and where the employes are customarily paid, and such other facts and information as the board shall require; and, when the employments are subdivided into classes, as provided in section ten of this act, the applicant shall further state (f) the number of employes of each class expected to be employed or previously employed, as aforesaid; (g) the approximate money wages expected to be paid or previously paid, as aforesaid, to employes of each class for which insurance is sought. Thereupon the board shall make such investigations as they may deem necessary, and, within thirty days after such application, shall issue a certificate showing the classification or group in which such applicant is entitled to be placed, and the amount of premium payable by such applicant for the year for which insurance is sought. No insurance shall be issued for a longer period than a single year.

Section 5. Sections 20 and 21 of the act are amended to read:

Section 20. Any subscriber to the Fund who shall, within seven days after knowledge or notice of an accident to an employe in the course of

his employment, as required by section three hundred and eleven of article three of the Workmen's Compensation Act of 1915, have filed with the Board a true statement of such knowledge, or a true copy of said notice, shall be discharged from all liability for the payment of compensation for the personal injury or death of such employe by such accident; and all such compensation due therefor, under article three of the Workmen's Compensation Act of 1915, shall be paid out of the Fund: Provided, however, That the report of such accident required by the act, entitled "An act requiring employers to make report to the Department of Labor and Industry of accidents to employes, and prescribing a penalty for non-compliance therewith," approved the nineteenth day of July, one thousand nine hundred and thirteen, shall be sufficient compliance with this section, if such report be made within said period of seven days and shall state that the employer making the same is a subscriber to the Fund:

Provided, That nothing in this section shall discharge any employer from the duty of supplying the medical and surgical services, medicine, and supplies required by section three hundred and six of the Workmen's Compensation Act of 1915: And provided further, That any subscriber who has supplied such services, medicines, and supplies shall be reimbursed therefor from the Fund. *Any subscriber to the Fund who shall, within seven days after knowledge of an accident to any employe arising out of and in the course of his employment and such accident comes within the purview of the Federal Coal Mine Health and Safety Act of 1969, as amended, Pub.L.91-173, December 30, 1969, 83 Stat. 742 et seq., have filed with the Board a true statement of such knowledge, shall be discharged from all liability for the payment of benefits for the personal injury or death of such employe by such accident; and all such benefits due therefor under provisions of the Federal Coal Mine Health and Safety Act of 1969, as amended, Pub.L.91-173, December 30, 1969, 83 Stat. 742 et seq., shall be paid out of the Fund. Any subscriber to the Fund who shall, within seven days after knowledge of an accident to an employe arising out of and in the course of his employment, have filed with the Board a true statement of such knowledge, shall be discharged from all liability for all sums such subscriber shall become legally obligated to pay any employe of his as damages because of bodily injury by accident or disease, including death at any time resulting therefrom, sustained by such employe arising out of and in the course of his employment and all such sums shall be paid out of the Fund.*

Section 21. In every case where a claim is made against the Fund, the Fund shall be entitled to every defense against such claim that would have been open to the employer, and shall be subrogated to every right of the employer arising out of such accident against the employe, the dependents, and against third persons. The Fund may, in the name of the State Workmen's Insurance Fund, sue in any county of this

Commonwealth, or be sued, in the [court of common pleas of Dauphin county] *Commonwealth Court*, to enforce any right given against or to any subscriber or other person under this act or the Workmen's Compensation Act of 1915, *or the Federal Coal Mine Health and Safety Act of 1969, as amended, Pub.L.91-173, December 30, 1969, 83 Stat. 742 et seq.; and employers who want insurance against liability for all sums or under circumstances where an employer shall become legally obligated to pay any employe of his damages because of bodily injury by accident or disease, including death at any time resulting therefrom, sustained by such employe arising out of and in the course of his employment;* and the proceedings provided in article four of the Workmen's Compensation Act of 1915 may be instituted by or against the Fund, in the said name, to enforce, before the Board of Workmen's Compensation or any Referee thereof, the rights given to or against the said Fund by the Workmen's Compensation Act of 1915.

Section 6. Section 23 of the act, amended April 27, 1927 (P.L.416, No.271), is amended to read:

Section 23. The board is hereby empowered to execute the agreements provided in the Workmen's Compensation Act of one thousand nine hundred fifteen, its amendments and supplements, and to make such rules as they may deem necessary for this purpose. When any such agreement has been approved by the Department of Labor and Industry, the same shall be properly filed and docketed, and the board shall, from time to time, until such agreement shall be modified or terminated, as provided in the Workmen's Compensation Act of one thousand nine hundred fifteen, its amendments and supplements, pay the sums therein agreed upon. All such payments shall be made by cheque of the State Treasurer issued upon requisition of the Secretary of Labor and Industry. Every such cheque shall be mailed to the person or persons entitled thereto under such agreement. When any award is made by the Workmen's Compensation Board, or by a referee in any proceedings brought by an employe of a subscriber or the dependents of such employe against the said fund, such award shall be filed and docketed; and the State Workmen's Insurance Board shall, from time to time, until such award is modified, reversed, or terminated, pay the sums therein lawfully awarded against the said fund. All such payments shall be made by cheque of the State Treasurer issued upon requisition of the Secretary of Labor and Industry, and every such cheque shall be mailed to the person or persons entitled thereto under such award.

When any proceedings brought by an employe of a subscriber or the dependents of such employe against the Fund for benefits payable under the Federal Coal Mine Health and Safety Act of 1969, as amended, Pub.L.91-173, December 30, 1969, 83 Stat. 742 et seq., such proceedings shall be filed and docketed; and the State Workmen's Insurance Board shall from time to time until such benefits are modified, reversed, or terminated pay such benefit sums for which the said Fund is legally

responsible. All such payments shall be made by cheque of the State Treasurer issued upon requisition of the Secretary of Labor and Industry, and every such cheque shall be mailed to the person or persons entitled thereto.

When any proceedings brought by an employe of a subscriber or the dependents of such employe against the Fund for sums such subscriber shall become legally obligated to pay any employe of his as damages because of bodily injury by accident or disease, including death at any time resulting therefrom, sustained by such employe arising out of and in the course of his employment, such proceedings shall be filed and docketed; and the State Workmen's Insurance Board shall from time to time until such damage sums are modified, reversed or terminated pay such damage sums for which the said Fund is legally responsible. All such payments shall be made by cheque of the State Treasurer issued upon requisition of the Secretary of Labor and Industry and every such cheque shall be mailed to the person or persons entitled thereto.

Section 7. The act of April 26, 1929 (P.L. 826, No. 358), entitled, "An act authorizing and directing the State Workmen's Insurance Fund, in certain cases, to contribute toward losses of their insured," is repealed.

Section 8. This act shall take effect immediately.

APPROVED—The 18th day of October, A. D. 1975.

MILTON J. SHAPP