

SENATE BILL NO. 20

BY SENATORS RISER AND HEWITT

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AN ACT

To amend and reenact R.S. 23:1170(A), 1172(A), 1172.1(C), 1172.2(D), 1178(D), 1291.1(C)(1) and (E), 1310.3(E), and 1310.13, relative to the Office of Workers' Compensation Administrative Fund in the state treasury; to provide for the dedication, use, investment, and appropriation of monies in the Office of Workers' Compensation Administrative Fund; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:1170(A), 1172(A), 1172.1(C), 1172.2(D), 1178(D), 1291.1(C)(1) and (E), 1310.3(E), and 1310.13 are hereby amended and reenacted to read as follows:

§1170. Penalty for failure to secure workers' compensation insurance; assessment and collection

A. In addition to any other penalty prescribed by law, any employer who fails to secure compensation required by R.S. 23:1168 shall be liable for a civil penalty, to be assessed by the workers' compensation judge, of not more than two hundred fifty dollars per employee for a first offense, and liable for a civil penalty of not more than five hundred dollars per employee for a second or subsequent offense; however, the maximum civil penalty for a first offense shall not exceed ten thousand dollars

1 for all related series of violations. All civil penalties collected shall be deposited in
2 the Office of Workers' Compensation Administrative ~~Account~~ **Fund** established in
3 R.S. 23:1291.1(E).

4 * * *

5 §1172. Criminal penalties

6 A. Any employer who willfully fails to provide security for compensation
7 required by R.S. 23:1168 shall be subject to a fine of up to two hundred fifty dollars
8 per day that the employer willfully failed to provide security for compensation or
9 imprisonment with or without hard labor for not more than one year, or both such
10 fine and imprisonment. All fines collected shall be deposited in the Office of
11 Workers' Compensation Administrative ~~Account~~ **Fund** established in R.S.
12 23:1291.1(E).

13 * * *

14 §1172.1. Willful misrepresentation by employer; aid or abet; criminal penalties;
15 civil immunity

16 * * *

17 C. Whoever violates any provision of this Section shall be imprisoned, with
18 or without hard labor, for not less than one year nor more than ten years, or fined up
19 to two hundred fifty dollars per day that the employer willfully failed to provide
20 security for compensation, or both. All fines collected shall be deposited in the
21 Office of Workers' Compensation Administrative ~~Account~~ **Fund** established in R.S.
22 23:1291.1(E).

23 * * *

24 §1172.2. Unlawful practices

25 * * *

26 D. Whoever violates any provision of this Section shall be imprisoned, with
27 or without hard labor, for not less than one year nor more than ten years, or fined up
28 to two hundred fifty dollars per day that such person's violation of any provision of
29 this Section resulted in failure to properly provide security for compensation, or
30 both. All fines collected shall be deposited in the Office of Workers' Compensation

1 Administrative ~~Account~~ **Fund** established in R.S. 23:1291.1(E).

2 * * *

3 §1178. Cost containment meeting; incentive discount

4 * * *

5 D. Any eligible employer who has been given notice of a cost containment
6 meeting, and fails to attend shall be fined an amount ~~equaling~~ **equaling** two percent
7 of the Louisiana workers' compensation premium for the succeeding policy year. The
8 fine shall be payable to the executive director of the commission and shall be
9 remitted to the state treasurer for deposit in the Office of Workers' Compensation
10 Administrative ~~Account~~ **Fund**.

11 * * *

12 §1291.1. Annual reports; assessment; collection

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14 C.(1) The director of the office of workers' compensation administration shall
15 provide by regulation for the collection of the amounts assessed against each insurer
16 and employer. Collection of funds under the provisions of this Subsection shall be
17 accomplished by the office of workers' compensation administration, the amount
18 collected to be determined by the director. Such amounts shall be paid into the Office
19 of Workers' Compensation Administrative ~~Account~~ **Fund** within thirty days from the
20 date that notice is served upon such insurer or employer.

21 * * *

22 E. There is hereby created and established in the state treasury a special
23 ~~agency account~~ **fund**, which shall be designated as the "Office of ~~Worker's~~
24 **Workers'** Compensation Administrative ~~Account~~ **Fund**". The ~~account~~ **fund** shall be
25 maintained as a separate account in the treasury for the sole purpose of funding the
26 administrative expenses of the office of ~~worker's~~ **workers'** compensation
27 administration of the Louisiana Workforce Commission as set forth in R.S. 23:1291
28 et seq. Funds shall be withdrawn therefrom only pursuant to legislative appropriation
29 and shall be subject to budgetary control as provided by law. All remaining and
30 unencumbered balances at the end of any fiscal year shall remain to the credit of the

1 account **fund** and shall be used solely for the purpose stated in this Section. ~~Funding~~
2 ~~deposited into the account shall be considered fees and self-generated revenues and~~
3 ~~shall be available for annual appropriations by the legislature.~~

4 * * *

5 §1310.3. Initiation of claims; voluntary mediation; procedure

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7 E. If any party fails to appear at a mediation conference ordered by the judge
8 or requested by the parties after proper notice, the workers' compensation judge upon
9 request of a party may fine the delinquent party an amount not to exceed five
10 hundred dollars, which shall be payable to the Office of Workers' Compensation
11 Administrative ~~Account~~ **Fund**. In addition, the workers' compensation judge may
12 assess against the party failing to attend costs and reasonable attorney fees incurred
13 by any other party in connection with the conference. The penalties provided for in
14 this Subsection shall be assessed by the workers' compensation judge only after a
15 contradictory hearing which shall be held prior to the hearing on the merits of the
16 dispute.

17 * * *

18 §1310.13. Expenses of director; penalties imposed by Act; payment into special
19 state treasury fund

20 All penalties imposed by the ~~Worker's~~ **Workers'** Compensation Act, except
21 those specifically payable to claimants, or as otherwise specifically provided by law,
22 shall be deposited into the Office of ~~Worker's~~ **Workers'** Compensation
23 Administrative ~~Account~~ **Fund** and used in those amounts appropriated by the
24 legislature as provided for in R.S. 23:1291.1(E).

25 Section 2. The provisions of R.S. 23:1170(A), 1172(A), 1172.1(C), 1172.2(D),
26 1178(D), 1291.1(C)(1) and (E), 1310.3(E), and 1310.13, as amended by the Act which
27 originated as Senate Bill No. 400 of the 2018 Regular Session of the Legislature are hereby
28 superceded by the provisions of this Act and shall not become effective.

29 Section 3. This Act shall become effective upon signature by the governor or, if not
30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____