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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION
BENEFITS

Introduced By: Senators P Fogarty, Ruggerio, Ciccone, McCaffrey, and Goodwin

Date Introduced: June 01, 2011

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-30-13 of the General Laws in Chapter 28-30 entitled "Workers'
2 Compensation Court" is hereby amended to read as follows:

3 **28-30-13. Controversies submitted to court.** -- (a) Any controversy over which the
4 workers' compensation court has jurisdiction in accordance with chapters 29 -- 38 and chapter 53
5 of this title, including compensation, ~~reasonableness~~ payment of medical and hospital bills (either
6 before, or, where the parties have expressly provided and the court has approved, after a lump
7 sum settlement pursuant to section 28-33-25) and a determination of the reasonableness of said
8 bills, degree of functional impairment and/or disability, a dispute between an insurance carrier
9 and an employer under a workers' compensation insurance contract, except disputes under the
10 jurisdiction of the workers' compensation appeals board established pursuant to section 27-9-29,
11 failure of an employer to secure the payment of compensation under chapters 29 -- 38 and chapter
12 53 of this title and any controversy in which the state or any of its political subdivisions is a party,
13 shall be submitted to the court in the manner provided in chapters 33 and 35 of this title.

14 (b) Disputes between an insurance carrier and an employer under a workers'
15 compensation insurance contract shall not be subject to a pretrial conference in accordance with
16 section 28-35-20, but shall be assigned consistent with the rules and regulations of the workers'
17 compensation court.

18 SECTION 2. Section 28-41-6 of the General Laws in Chapter 28-41 entitled "Temporary

1 Disability Insurance - Benefits" is hereby amended to read as follows:

2 **28-41-6. Effect on waiting period credit and benefits of receipt of workers'**
3 **compensation payments.** -- (a) No individual shall be entitled to receive waiting period credit
4 benefits or dependents' allowances with respect to which benefits are paid or payable to that
5 individual under any workers' compensation law of this state, any other state, or the federal
6 government, on account of any disability caused by accident or illness. In the event that workers'
7 compensation benefits are subsequently awarded to an individual, whether on a weekly basis or
8 as a lump sum, for a week or weeks with respect to which that individual has received waiting
9 period credit, benefits, or dependents' allowances, under chapters 39 -- 41 of this title, the
10 director, for the temporary disability insurance fund, shall be subrogated to that individual's rights
11 in that award to the extent of the amount of benefits and/or dependents' allowances paid to him or
12 her under those chapters.

13 Provided however, that nothing herein shall be construed to deny benefits or waiting
14 period credit benefits or dependents' allowances under this chapter to individuals who receive a
15 lump sum settlement pursuant to section 28-33-25 and subsequently apply for benefits under this
16 chapter as long as the sickness or illness is materially different from the one for which the
17 individual was paid workers' compensation, is not affected by said injury and/or the medical
18 condition did not result from the injury for which the employee was paid workers' compensation
19 benefits.

20 (b) (1) Whenever an employer or his or her insurance carrier has been notified that an
21 individual has filed a claim for unemployment due to sickness for any week or weeks under
22 chapters 39 -- 41 of this title for which week or weeks that individual is or may be eligible for
23 benefits under chapters 29 -- 38 of this title, that notice shall constitute a lien upon any pending
24 award, order, or settlement to that individual under chapters 29 -- 38 of this title.

25 (2) The employer or his insurance carrier shall be required to reimburse the director, for
26 the temporary disability insurance fund, the amount of benefits and/or dependents' allowances
27 received by the individual under chapters 39 -- 41 of this title, for any week or weeks for which
28 that award, order, or settlement is made.

29 (c) Whenever an individual becomes entitled to or is awarded workers' compensation
30 benefits for the same week or weeks with respect to which he has received benefits and/or
31 dependents' allowances under chapters 39 -- 41 of this title, and notice of that receipt has been
32 given to the division of workers' compensation of the department of labor and training and/or the
33 workers' compensation court, the division or court is required to and shall incorporate in the
34 award, order, or approval of settlement, an order requiring the employer or his or her insurance

1 carrier to reimburse the director, for the temporary disability insurance fund, the amount of any
2 disability benefits and/or dependents' allowances which may have been paid to the employee for
3 unemployment due to sickness for those weeks under chapters 39 -- 41 of this title. Nothing
4 herein shall be construed to deny benefits under this chapter to individuals who receive a lump
5 sum settlement pursuant to section 28-33-25 and subsequently apply for benefits under this
6 chapter as long as the sickness or illness is materially different from the one for which the
7 individual was paid workers' compensation, is not affected by said injury and/or the medical
8 condition did not result from the injury for which the employee was paid workers' compensation
9 benefits.

10 (d) If, through inadvertence, error, or mistake, an individual has received benefit
11 payments and/or dependents' allowances for any week or weeks under chapters 39 -- 41 of this
12 title, and has also received payments for the same week or weeks under any workers'
13 compensation law of this state, any other state, or of the federal government, he or she shall, in
14 the discretion of the director of the department of labor and training, be liable to have that sum
15 deducted from any benefits payable to him or her under chapters 39 -- 41 of this title, or shall be
16 liable to repay to the director, for the temporary disability insurance fund, a sum equal to that
17 amount received, and that sum shall be collectible in the manner provided in section 28-40-12 for
18 the collection of past due contributions.

19 (e) Notwithstanding any other provision of this section, no individual who, prior to
20 September 1, 1969, has sustained an injury by reason of which he or she may be eligible for
21 benefits under chapters 29-38 of this title shall be deprived of any rights which he or she may
22 have under chapters 39 -- 41 of this title.

23 SECTION 3. Section 28-53-2 of the General Laws in Chapter 28-53 entitled "Rhode
24 Island Uninsured Employers Fund" is hereby amended to read as follows:

25 **28-53-2. Establishment -- Sources -- Administration.** -- (a) There shall be established
26 within the department of labor and training a special restricted receipt account to be known as the
27 Rhode Island uninsured employers fund. The fund shall be capitalized from excise taxes assessed
28 against uninsured employers pursuant to the provisions of section 28-53-9 of this chapter and
29 from general revenues appropriated by the legislature. Beginning in state fiscal year ending June
30 30, ~~2012~~ [2013](#), the legislature may appropriate up to two million dollars (\$2,000,000) in general
31 revenue funds annually for deposit into the Rhode Island uninsured employers fund.

32 (b) All moneys in the fund shall be mingled and undivided. The fund shall be
33 administered by the director of the department of labor and training or his or her designee, but in
34 no case shall the director incur any liability beyond the amounts paid into and earned by the fund.

1 (c) All amounts owed to the uninsured employers fund from illegally uninsured
2 employers are intended to be excise taxes and as such, all ambiguities and uncertainties are to be
3 resolved in favor of a determination that such assessments are excise taxes.

4 SECTION 4. Section 36-10-31 of the General Laws in Chapter 36-10 entitled
5 "Retirement System-Contributions and Benefits" is hereby amended to read as follows:

6 **36-10-31. Deduction of amounts received from workers' compensation or as**
7 **damages.** -- Any amount paid or payable under the provisions of any workers' compensation law,
8 exclusive of Medicare set-aside allocations, specific compensation benefits or any benefits
9 authorized by the terms of a collective bargaining agreement, or as the result of any action for
10 damages for personal injuries against the state of Rhode Island on account of the death or
11 disability of a member shall be offset against and payable in lieu of any benefits payable out of
12 funds provided by the state under the provisions of this chapter on account of the death or
13 disability of the member. If the value of the total commuted benefits under any workers'
14 compensation law or action is less than the present value on an actuarial basis of the benefits
15 otherwise payable under this chapter, the value of the commuted payments shall be deducted
16 from the present value of the benefits and the balance thereof shall be payable under the
17 provisions of this chapter.

18 SECTION 5. Sections 1, 2 and 3 of this act shall take effect upon passage and Section 4
19 of this act shall be effective upon passage and retroactively apply to cases currently pending
20 before the Rhode Island retirement board and appeals of prior decisions made by the board.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO LABOR AND LABOR RELATIONS – WORKERS' COMPENSATION
BENEFITS

1 This act would clarify workers' compensation court's jurisdiction over the reasonableness
2 and payment of medical bills. It would exclude any Medicare set-aside allocations, specific
3 compensation benefit payments and all collective bargaining agreement benefits, from being used
4 to offset any disability or death benefits he or she may be entitled to, as a member of the state
5 retirement system.

6 Sections 1, 2 and 3 of this act would take effect upon passage and Section 4 of this act
7 would be effective upon passage and retroactively apply to cases currently pending before the
8 Rhode Island retirement board and appeals of prior decisions made by the board.

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