

SENATE BILL 2299

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 6, Section 405, and Title 56, Chapter 4, relative to self-insuring employers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-405(b)(1), is amended by deleting subparts (D) through (H), redesignating the remaining subdivisions, and adding the following as a new subdivision (G):

(G) The commissioner may by rules establish requirements for securities posted pursuant to this subsection. Such rules may also prescribe the various types and classes of securities which the commissioner will accept under this subsection.

SECTION 2. Tennessee Code Annotated, Section 50-6-405(b), is hereby amended by adding the following as a new subdivision (9):

(9) All employers self-insuring pursuant to this subsection (b) shall pay premium tax and surcharges at the rates set forth in §56-4-207. Each employer's premium tax and surcharge shall be due on or before the last day of the sixth month following the end of the employer's fiscal year. Any employer failing to timely pay such taxes and surcharges shall be subject to the penalties, interest and sanctions set forth in §56-4-216.

SECTION 3. Tennessee Code Annotated, Section 50-6-405, is hereby amended by adding the following as a new subsection (j):

(j) The commissioner is authorized to establish a guaranty fund for employers that self-insure pursuant to subsection (b) of this section in order to provide for the

payment of claims, to avoid excessive delay in payment, and to avoid financial loss to employees because of the insolvency or non-payment of a self-insuring employer.

(1) The fund shall be created, funded, and administered independently from any other guaranty fund mechanism.

(2) Governmental entity self-insurers are specifically exempted from the provisions of this subsection.

(3) Each self-insuring employer shall be required to participate in the guaranty fund.

(4) There shall be created a nonprofit unincorporated legal entity known as the Tennessee Self-Insurers Guaranty Fund Association (“Association”). The Association shall periodically, but not less than annually, conduct an accounting in order to determine the amount of money each self-insuring employer should contribute to the fund in order to provide that the fund has an adequate pool of money to pay the workers’ compensation and related liabilities of a self-insuring employer when a self-insuring employer fails to pay its obligations under this chapter. The Association shall assess the participating members in a manner approved by the commissioner of commerce and insurance.

(A) For purposes of assessment and the maintenance of records, the Association shall operate using two separate accounts as follows:

- (i) The workers’ compensation self-insurance account; and
- (ii) The account for administration and investments.

(B) The Association shall submit to the commissioner at least sixty (60) days prior to any assessment the amounts it intends to assess its members.

(6) The board of directors of the Association shall direct the investment of moneys of the guaranty fund, and all returns on the investments shall be retained by the guaranty fund. The moneys in the fund shall be used solely to compensate persons entitled to receive workers' compensation benefits from a Tennessee self-insurer which is unable or fails to meet its workers' compensation benefits obligations and to defray the expenses of the fund.

(7) At any time that the funds of the guaranty fund become inadequate to make payments to all valid claimants, the Association shall assess the participating employers in an amount necessary to pay the outstanding claims and expenses and to replenish the fund.

(8) The commissioner has the authority to promulgate rules to provide for the regulation, administration and enforcement of the guaranty fund.

SECTION 4. Tennessee Code Annotated, Section 50-6-405, is hereby amended by adding the following as a new subsection (k):

(k) As an alternative to each private self-insuring employer securing its own incurred liabilities, the commissioner may provide by rules for an alternative collateral fund mechanism whereby self-insured employers authorized by the commissioner may collectively secure their aggregate incurred liabilities. The rules promulgated by the commissioner may allow for the oversight and administration of the alternative collateral fund mechanism by the Tennessee Self-Insurers Guaranty Fund Association. The rules may also exempt employers that participate in the alternative security fund mechanism from certain requirements of this Section if in the commissioner's determination such requirements should not apply to participating employers. Self-insuring employers that do not participate in the alternative collateral security mechanism shall meet all requirements required by § 50-6-405(b) and other applicable statutes and rules.

SECTION 5. This act shall take effect upon becoming a law the public welfare requiring
it.