

2018 Second Extraordinary Session

SENATE BILL NO. 20

BY SENATORS RISER AND HEWITT

FUNDS/FUNDING. Provides relative to the Office of Workers' Compensation Administrative Fund. (Item #11) (gov sig)

1 AN ACT  
2 To amend and reenact R.S. 23:1170(A), 1172(A), 1172.1(C), 1172.2(D), 1178(D),  
3 1291.1(C)(1) and (E), 1310.3(E), and 1310.13, and to repeal R.S. 23:1170(A),  
4 1172(A), 1172.1(C), 1172.2(D), 1178(D), 1291.1(C)(1) and (E), 1310.3(E), and  
5 1310.13 as amended by the Act which originated as Senate Bill No. 400 of the 2018  
6 Regular Session of the Legislature, relative to the Office of Workers' Compensation  
7 Administrative Fund in the state treasury; to provide for the dedication, use,  
8 investment, and appropriation of monies in the Office of Workers' Compensation  
9 Administrative Fund; to provide for an effective date; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

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

14 §1170. Penalty for failure to secure workers' compensation insurance; assessment  
15 and collection

16 A. In addition to any other penalty prescribed by law, any employer who fails  
17 to secure compensation required by R.S. 23:1168 shall be liable for a civil penalty,

1 to be assessed by the workers' compensation judge, of not more than two hundred  
 2 fifty dollars per employee for a first offense, and liable for a civil penalty of not more  
 3 than five hundred dollars per employee for a second or subsequent offense; however,  
 4 the maximum civil penalty for a first offense shall not exceed ten thousand dollars  
 5 for all related series of violations. All civil penalties collected shall be deposited in  
 6 the Office of Workers' Compensation Administrative ~~Account~~ **Fund** established in  
 7 R.S. 23:1291.1(E).

8 \* \* \*

9 §1172. Criminal penalties

10 A. Any employer who willfully fails to provide security for compensation  
 11 required by R.S. 23:1168 shall be subject to a fine of up to two hundred fifty dollars  
 12 per day that the employer willfully failed to provide security for compensation or  
 13 imprisonment with or without hard labor for not more than one year, or both such  
 14 fine and imprisonment. All fines collected shall be deposited in the Office of  
 15 Workers' Compensation Administrative ~~Account~~ **Fund** established in R.S.  
 16 23:1291.1(E).

17 \* \* \*

18 §1172.1. Willful misrepresentation by employer; aid or abet; criminal penalties;  
 19 civil immunity

20 \* \* \*

21 C. Whoever violates any provision of this Section shall be imprisoned, with  
 22 or without hard labor, for not less than one year nor more than ten years, or fined up  
 23 to two hundred fifty dollars per day that the employer willfully failed to provide  
 24 security for compensation, or both. All fines collected shall be deposited in the  
 25 Office of Workers' Compensation Administrative ~~Account~~ **Fund** established in R.S.  
 26 23:1291.1(E).

27 \* \* \*

28 §1172.2. Unlawful practices

29 \* \* \*

1 D. Whoever violates any provision of this Section shall be imprisoned, with  
 2 or without hard labor, for not less than one year nor more than ten years, or fined up  
 3 to two hundred fifty dollars per day that such person's violation of any provision of  
 4 this Section resulted in failure to properly provide security for compensation, or  
 5 both. All fines collected shall be deposited in the Office of Workers' Compensation  
 6 Administrative ~~Account~~ **Fund** established in R.S. 23:1291.1(E).

7 \* \* \*

8 §1178. Cost containment meeting; incentive discount

9 \* \* \*

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

16 \* \* \*

17 §1291.1. Annual reports; assessment; collection

18 \* \* \*

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

26 \* \* \*

27 E. There is hereby created and established in the state treasury a special  
 28 ~~agency account~~ **fund**, which shall be designated as the "Office of ~~Worker's~~  
 29 **Workers'** Compensation Administrative ~~Account~~ **Fund**". The ~~account~~ **fund** shall

1 be maintained as a separate account in the treasury for the sole purpose of funding  
 2 the administrative expenses of the office of ~~worker's~~ **workers'** compensation  
 3 administration of the Louisiana Workforce Commission as set forth in R.S. 23:1291  
 4 et seq. Funds shall be withdrawn therefrom only pursuant to legislative appropriation  
 5 and shall be subject to budgetary control as provided by law. All remaining and  
 6 unencumbered balances at the end of any fiscal year shall remain to the credit of the  
 7 ~~account~~ **fund** and shall be used solely for the purpose stated in this Section. ~~Funding~~  
 8 ~~deposited into the account shall be considered fees and self-generated revenues and~~  
 9 ~~shall be available for annual appropriations by the legislature.~~

10 \* \* \*

11 §1310.3. Initiation of claims; voluntary mediation; procedure

12 \* \* \*

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

23 \* \* \*

24 §1310.13. Expenses of director; penalties imposed by Act; payment into special  
 25 state treasury fund

26 All penalties imposed by the ~~Worker's~~ **Workers'** Compensation Act, except  
 27 those specifically payable to claimants, or as otherwise specifically provided by law,  
 28 shall be deposited into the Office of ~~Worker's~~ **Workers'** Compensation  
 29 Administrative ~~Account~~ **Fund** and used in those amounts appropriated by the

1 legislature as provided for in R.S. 23:1291.1(E).

2 Section 2. The provisions of R.S. 23:1170(A), 1172(A), 1172.1(C), 1172.2(D),  
3 1178(D), 1291.1(C)(1) and (E), 1310.3(E), and 1310.13, as amended by the Act which  
4 originated as Senate Bill No. 400 of the 2018 Regular Session of the Legislature are hereby  
5 repealed.

6 Section 3. This Act shall become effective upon signature by the governor or, if not  
7 signed by the governor, upon expiration of the time for bills to become law without signature  
8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
9 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
10 effective on the day following such approval.

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The original instrument was prepared by Martha Hess. The following digest,  
which does not constitute a part of the legislative instrument, was prepared  
by J. W. Wiley.

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#### DIGEST

SB 20 Reengrossed

2018 Second Extraordinary Session

Riser

Present law provides for the dedication, use, investment, and appropriation of monies in the Office of Workers' Compensation Administrative Fund (Fund).

Senate Bill No. 400 of the 2018 Regular Session revised the Fund by changing it from a Fund to an Account, and further providing that the monies in the Account shall be considered fees and self-generated revenues available for annual appropriation by the legislature.

Proposed law reverses the changes made to the Fund in Senate Bill No. 400 of the 2018 Regular Session.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends 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; repeals 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 as amended by the Act that originated as SB 400 of the 2018 R.S.)

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill

1. Makes technical corrections.