

2012 -- H 7614

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - RHODE ISLAND UNINSURED
EMPLOYERS FUND

Introduced By: Representatives Williams, Edwards, Hull, McCauley, and Slater

Date Introduced: February 16, 2012

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-53-2 and 28-53-7 of the General Laws in Chapter 28-53
2 entitled "Rhode Island Uninsured Employers Fund" are hereby amended to read as follows:

3 **28-53-2. Establishment -- Sources -- Administration. --** (a) There shall be established
4 within the department of labor and training a special restricted receipt account to be known as the
5 Rhode Island uninsured employers fund. The fund shall be capitalized from excise taxes assessed
6 against uninsured employers pursuant to the provisions of section 28-53-9 of this chapter and
7 from general revenues appropriated by the legislature. Beginning in state fiscal year ending June
8 30, ~~2012~~ 2013, the legislature may appropriate up to two million dollars (\$2,000,000) in general
9 revenue funds annually for deposit into the Rhode Island uninsured employers fund.

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

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

16 **28-53-7. Payments to employees of uninsured employers. --** (a) Where it is determined
17 that the employee was injured in the course of employment while working for an employer who
18 fails to maintain a policy of workers' compensation insurance as required by Rhode Island general

1 laws section 28-36-1, et seq., the uninsured employers fund shall pay the benefits to which the
2 injured employee would be entitled pursuant to chapters 29 to 38 of this title subject to the
3 limitations set forth herein.

4 (b) The workers' compensation court shall hear all petitions for payment from the fund
5 pursuant to Rhode Island general laws section 28-30-1, et seq., provided, however, that the
6 uninsured employers fund and the employer shall be named as parties to any petition seeking
7 payment of benefits from the fund.

8 (c) Where an employee is deemed to be entitled to benefits from the uninsured
9 employers fund, the fund shall pay benefits for disability and medical expenses as provided
10 pursuant to chapters 29 to 38 of this title except that the employee shall not be entitled to receive
11 benefits for loss of function and disfigurement pursuant to the provisions of Rhode Island general
12 laws section 28-33-19.

13 (d) The fund shall pay cost, counsel and witness fees as provided in Rhode Island
14 general laws section 28-35-32 to any employee who successfully prosecutes any petitions for
15 compensation, petitions for medical expenses, petitions to amend a pretrial order or memorandum
16 of agreement and all other employee petitions and to employees who successfully defend, in
17 whole or in part, proceedings seeking to reduce or terminate any and all workers' compensation
18 benefits; provided, however, that the attorney's fees awarded to counsel who represent the
19 employee in petitions for lump sum commutation filed pursuant to Rhode Island general laws
20 section 28-33-25 or in the settlement of disputed cases pursuant to Rhode Island general laws
21 section 28-33-25.1 shall be limited to the maximum amount paid to counsel who serve as court
22 appointed attorneys in workers' compensation proceedings as established by rule or order of the
23 Rhode Island supreme court.

24 (e) In the event that the uninsured employer makes payment of any monies to the
25 employee to compensate the employee for lost wages or medical expenses, the fund shall be
26 entitled to a credit for all such monies received by or on behalf of the employee against any future
27 benefits payable directly to the employee.

28 (f) This section shall apply to injuries that occur on or after January 1, ~~2012~~ [2013](#).

29 SECTION 2. This act shall take effect upon passage and shall apply retroactively to all
30 claims regardless of the date of injury.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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1 This act would provide that commencing in fiscal year ending June 30, 2013, the general
2 assembly may appropriate up to \$2,000,000 for deposit into the uninsured employers fund.

3 The act would also provide that payments from the uninsured employers fund would
4 apply to injuries occurring on or after January 1, 2013.

5 This act would take effect upon passage and would apply retroactively to all claims
6 regardless of the date of injury.

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