

SENATE BILL 1646

By Norris

AN ACT to amend Tennessee Code Annotated, Title 50,  
Chapter 6, Part 8, relative to the uninsured  
employers fund.

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

SECTION 1. Tennessee Code Annotated, Section 50-6-801(b), is amended by adding the following language to the end of the subsection:

In addition, when deemed necessary in the discretion of the administrator and when the balance remaining in the uninsured employers fund is less than the amount of funds distributed by the division to provide benefits to injured workers in the previous fiscal year, the administrator may also withdraw up to twenty-five percent (25%) of the balance of funds remaining after the costs and expenditures provided by § 50-6-913(b) have been satisfied, from the employee misclassification education and enforcement fund to provide benefits under this part.

SECTION 2. Tennessee Code Annotated, Section 50-6-801, is amended by deleting the language "department of labor and workforce development" in subsection (c) and substituting instead "division of workers' compensation", and is further amended by adding the following language as a new subsection (d):

(d) The division may use any revenues remaining in the uninsured employers fund that are not used for the purposes provided in subsection (c) to provide temporary disability and medical benefits to any eligible employee who suffered an injury arising primarily within the course and scope of the employee's employment with an employer who failed to secure the payment of compensation pursuant to this chapter at the time the eligible employee suffered the injury. An employee shall be an eligible employee within the meaning provided by this section if:

(1) The employee was employed by an employer who failed to secure payment of compensation pursuant to this chapter;

(2) The employee suffered an injury on or after July 1, 2015, primarily within the course and scope of employment, at a time when the employer had failed to secure the payment of compensation;

(3) The employee was a Tennessee resident on the date of injury;

(4) The employee provided notice to the division of the injury and of the failure of the employer to secure the payment of compensation within a reasonable period of time, but in no event more than sixty (60) days, after the date of the injury; and

(5) Except as provided in § 50-6-802(d) and (e), the employee secured a judgment for workers' compensation benefits against the employer for the injury.

SECTION 3. Tennessee Code Annotated, Title 50, Chapter 6, Part 8, is amended by adding the following as new, appropriately designated sections:

50-6-802.

(a) An eligible employee may request that the division provide the employee temporary disability or medical benefits, pursuant to § 50-6-801(d), by submitting a request for benefits from the uninsured employers fund to the division no more than sixty (60) days after conclusion of the claim, including all appeals. The request shall be made on a form prescribed by the division, and shall be submitted to the division via certified mail. The eligible employee shall include a copy of the judgment with the request. Any request for benefits that does not meet the requirements of this subsection shall not be considered.

(b) For claims with a date of injury that is on or after July 1, 2015, the division may, upon receipt of a request for benefits pursuant to subsection (a) from an eligible employee, provide the employee workers' compensation benefits for temporary disability and medical benefits only. The division shall promulgate rules, pursuant to the Uniform

Administrative Procedures Act, compiled in title 4, chapter 5, setting forth the circumstances under which benefits may be paid pursuant to this part.

(c) If the division pays workers' compensation benefits to the injured employee, the workers' compensation benefits shall be paid to the employee from the uninsured employers fund and the amount paid to, or on behalf of, any injured employee, pursuant to this part, shall not exceed forty thousand dollars (\$40,000). Of the forty thousand dollars (\$40,000), no more than twenty thousand dollars (\$20,000) shall be payable for medical benefits and no more than twenty thousand dollars (\$20,000) shall be payable for temporary disability benefits. However, if less than twenty thousand dollars (\$20,000) has been paid to the employee for temporary disability or medical benefits and the employee has secured a judgment for temporary disability or medical benefits in an amount greater than twenty thousand dollars (\$20,000), the administrator may pay the remaining funds to the employee for temporary disability or medical benefits. The administrator shall not pay benefits pursuant to this part to, or on behalf of, any employee for more than one workplace injury.

(d)

(1) In order to establish medical causation, the administrator shall have authority to provide medical benefits to an employee who meets the requirements of § 50-6-801(d)(1)-(4) for the payment of the cost associated with the employee's visit with a physician to perform an evaluation and provide an opinion on medical causation. The employer shall be required to reimburse the division for the payment of benefits pursuant to this section even when the employee's injury is determined not to be compensable under workers' compensation law.

(2) When medical benefits have been provided pursuant to subdivision (d)(1), the amount of payment shall be deducted from the total amount of benefits that may be provided under subsection (c) in the event that those benefits are provided. However, the provision of medical benefits pursuant to this subsection (d) shall not automatically entitle the employee to the benefits provided by subsection (c) even when the claim is determined to be compensable under workers' compensation law.

(e)

(1) If medical causation is established and a workers' compensation judge determines that an employee, who meets the requirements of § 50-6-801(d)(1)-(4), is entitled to temporary disability or medical benefits, following an expedited hearing as provided in § 50-6-239(d), the administrator has the discretion to begin paying temporary disability or medical benefits.

(2) If the administrator makes any payments of temporary disability or medical benefits pursuant to this subsection and the employee fails to prosecute the claim, the division has authority to seek recovery of the payments from the employee.

(3) The provision of medical benefits pursuant this subsection (e) shall not automatically entitle the employee to the benefits provided by subsection (c) even when the claim is determined to be compensable under workers' compensation law.

(f) When an employee who has provided notice pursuant to § 50-6-801(d)(4) files a claim for workers' compensation benefits against the employer identified in the notice, the court of workers' compensation claims shall convene a full and final hearing no more than sixty (60) days after the notice of hearing has been filed pursuant to § 50-6-239(a).

50-6-803.

(a) The payment of workers' compensation benefits to, or on behalf of, an injured employee pursuant to this part constitutes satisfaction of the judgment against the uninsured employer up to the amount paid. The division shall assume the rights of a creditor against the employer and may take action to collect the portion of the judgment that it satisfied on the employer's behalf.

(b) The division shall place a lien on the assets of the employer to recover money paid pursuant to this part by filing a notice of claim with the register of deeds of any county where the employer has assets. Upon filing the notice of claim with the appropriate official, the division shall be a secured creditor, and any lien secured pursuant to this part has first priority over all other liens with the exception of liens established for the collection of delinquent tax payments.

(c) The injured employee may collect the remaining portion of the judgment that was not satisfied by payment made pursuant to this part from the employer.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.