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SENATE BILL 814

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

ROMAN M MAES

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

. 110993. 1

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996

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4
5 February 9, 1996

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7 Mr. President:

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9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
10 whom has been referred

11
12 SENATE BILL 814

13
14 has had it under consideration and reports same with
15 recommendation that it DO NOT PASS, but that

16
17 SENATE CORPORATIONS & TRANSPORTATION COMMITTEE
18 SUBSTITUTE FOR SENATE BILL 814

19
20 DO PASS, and further recommends that it be referred to COMMITTEES'
21 COMMITTEE, and thence referred to the WAYS AND MEANS
22 COMMITTEE.

23
24 Respectfully submitted,
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Roman M. Maes, III, Chairman

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Kidd, McKibben, Rawson, Reagan

Absent: None

S0814CT1

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SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 814

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; AMENDING
AND REPEALING SECTIONS OF THE SUBSEQUENT INJURY ACT; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-2-4 NMSA 1978 (being Laws 1961, Chapter
134, Section 4, as amended) is amended to read:

"52-2-4. SUBSEQUENT INJURY FUND. -- A special fund to be known as
the "subsequent injury fund" is established for the purpose of carry-
ing out the provisions of the Subsequent Injury Act. ~~[The fund shall
be derived from the following sources:~~

~~A. the employer or his insurance carrier shall pay to the
superintendent of insurance the sum of one thousand dollars (\$1,000)
as indemnity benefits for the death of an employee when a final
determination is made that there is no beneficiary entitled to death
benefits under the Workers' Compensation Act;~~

~~B. each employer or his insurance carrier shall quarterly,~~

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~~under regulations prescribed by the superintendent of insurance,
pay to the superintendent of insurance a percentage not to
exceed three percent of the money paid out during such quarter
as compensation benefits and medical benefits, exclusive of
attorneys' fees and related benefits. The above percentage
shall be determined once before the end of each fiscal year by
the superintendent of insurance so as to provide a sufficient
income to meet payments from the fund for the next fiscal year;
provided that for the first fiscal year, the percentage shall be
one-half of one percent; and~~

~~C. the superintendent of insurance shall deposit all
such money collected by him with the state treasurer who shall
credit such deposits and accrued interest thereon to the
subsequent injury fund. The deposits made shall be a separate
fund for payments authorized under the provisions of the
Subsequent Injury Act.] "~~

Section 2. Section 52-2-5 NMSA 1978 (being Laws 1986,
Chapter 22, Section 47, as amended) is amended to read:

"52-2-5. PAYMENTS FROM FUND--CLAIMS AGAINST FUND. --

A. The superintendent of insurance may authorize
payments from the subsequent injury fund for the following
purposes, whether or not a compensation order has been entered:

(1) the reimbursement to the employer or its
insurance carrier of the fund's portion of benefits payable to
an injured worker under the Workers' Compensation Act as
apportioned under the Subsequent Injury Act;

~~[(2) the payment to the worker of the fund's
portion of benefits payable to the injured worker if a worker~~

1 ~~brings an action under Subsection D of this section;~~

2 ~~(3)]~~ (2) the payment of fees to attorneys who
3 represent the superintendent of insurance and the subsequent injury
4 fund and of fees to other professional advisers to the
5 superintendent of insurance in connection with the superintendent's
6 administration of the subsequent injury fund; and

7 ~~[(4)]~~ (3) the payment of any other expenses
8 ancillary to the superintendent's administration of the subsequent
9 injury fund.

10 ~~[B. Subject to the requirements of Section 52-2-14 NMSA~~
11 ~~1978, an employer or its insurance carrier may assert a claim~~
12 ~~against the subsequent injury fund under the following~~
13 ~~circumstances only:~~

14 ~~(1) if a worker asserts a claim against the employer~~
15 ~~under the Workers' Compensation Act, the employer or its insurance~~
16 ~~carrier may join the subsequent injury fund as an additional party~~
17 ~~and assert a right to reimbursement from the subsequent injury~~
18 ~~fund; and~~

19 ~~(2) if the worker is receiving compensation benefits~~
20 ~~from the employer, the employer or its insurance carrier may~~
21 ~~continue to make the payments and file a claim pursuant to the~~
22 ~~Subsequent Injury Act against the subsequent injury fund for~~
23 ~~apportionment of compensation benefits between the employer or its~~
24 ~~insurance carrier and the subsequent injury fund.~~

25 ~~C.]~~ B. The superintendent of insurance shall be a party

1 to all proceedings wherein a compensation order is sought against
2 the superintendent of insurance and the fund.

3 ~~[D. A worker may assert a claim against the fund only~~
4 ~~when the worker's employer is no longer doing business in New~~
5 ~~Mexico or is bankrupt and the employer or its insurance carrier~~
6 ~~cannot for reason of the cessation of business or bankruptcy assert~~
7 ~~a claim against the fund. The worker's claim is limited to~~
8 ~~apportionment of benefits under the Subsequent Injury Act to~~
9 ~~recover amounts that the fund would have paid the employer or its~~
10 ~~insurance carrier as reimbursement. The fund shall not be liable~~
11 ~~to the worker for any amounts for which the employer or its in-~~
12 ~~surance carrier would be liable to the worker under the Workers'~~
13 ~~Compensation Act. The worker takes the place of and assumes the~~
14 ~~status of the worker's employer on the claim against the fund. The~~
15 ~~fund shall be liable only to the worker, and not the employer or~~
16 ~~its insurance carrier, for any portion of benefits which the fund~~
17 ~~would have paid to the employer or its insurance carrier.~~

18 ~~E. A worker shall not assert a claim against the fund~~
19 ~~except as provided in Subsection D of this section.]"~~

20 Section 3. TEMPORARY PROVISION--SUBSEQUENT INJURY FUND--
21 TRANSFER OF FUNDS.--On the effective date of Section 5 of this act,
22 any unexpended or unencumbered balance remaining in the subsequent
23 injury fund shall be transferred to the general fund.

24 Section 4. REPEAL.--Sections 52-2-2, 52-2-3, 52-2-6 through
25 52-2-9, 52-2-11, 52-2-12 and 52-2-14 NMSA 1978 (being Laws 1961,

SCORC/SB 814

1 Chapter 134, Section 2, Laws 1986, Chapter 22, Section 46, Laws
2 1975, Chapter 298, Section 2, Laws 1961, Chapter 134, Sections 6, 7
3 and 9, Laws 1986, Chapter 22, Section 50, Laws 1961, Chapter 134,
4 Section 12 and Laws 1988, Chapter 109, Section 7, as amended) are
5 repealed.

6 Section 5. DELAYED REPEAL. -- Sections 52-2-1, 52-2-4 and
7 52-2-5 NMSA 1978 (being Laws 1961, Chapter 134, Sections 1 and 4
8 and Laws 1986, Chapter 22, Section 47, as amended) are repealed
9 effective July 1, 1999.

10 Section 6. EFFECTIVE DATE--CONTINGENCY. -- The provisions of
11 this act shall be effective only upon enactment into law of House
12 Bill 7 or any similar bill of the second session of the forty-
13 second legislature transferring money from the subsequent injury
14 fund to the general fund.

15 Section 7. EMERGENCY. -- It is necessary for the public peace,
16 health and safety that this act take effect immediately.

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FORTY- SECOND LEGI SLATURE
SECOND SESSI ON, 1996

FEBRUARY 13, 1996

Mr. President:

Your COMMI TTEES' COMMI TTEE, to whom has been referred

SENATE CORPORATIONS AND TRANSPORTATION COMMI TTEE
SUBSTITUTE FOR SENATE BILL 814

has had it under consideration and finds same to be GERMANE, PURSUANT
TO CONSTITUTIONAL PROVISIONS , and further refers the same to WAYS
AND MEANS COMMI TTEE.

Respectfully submitted,

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SENATOR MANNY M. ARAGON, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

February 13, 1996

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred

SENATE CORPORATIONS AND TRANSPORTATION
COMMITTEE SUBSTITUTE FOR
SENATE BILL 814

has had it under consideration and reports same with recommendation that
it DO PASS.

Respectfully submitted,

TITO D. CHAVEZ, Chairman

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 4 For 1 Against

Yes: 4

No: Rawson

Excused: Campos, Rhodes, Jennings

Absent: None

S0814WMI

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