S T A T E O F N E W Y O R K

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I N A S S E M B L Y

February 24, 2012

Introduced by M. of A. KOLB -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to removing the mandatory aggregate trust fund deposit requirements for non-scheduled permanent partial disability cases

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 2 of section 27 of the workers' compensation law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

2. If an award under this chapter requires payment of death benefits or other compensation by an insurance carrier or employer in periodical payments, the board may, in its discretion, at any time, any provision of this chapter to the contrary notwithstanding, compute and permit or require to be paid into the aggregate trust fund an amount equal to the present value of all unpaid death benefits or other compensation in cases in which awards are made for total permanent or permanent partial disability for a period of one hundred and four weeks or more, for which liability exists, together with such additional sum as the board may deem necessary for a proportionate payment of expenses of administering the fund so created, including the cost of the actuarial computation by or on behalf of the board of the present value of the award, and for the purposes of this section such cases shall be known as discretionary type cases. If any such award made on or after July first, nineteen hundred thirty-five, requires payment for total permanent disability resulting from the loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, or for permanent partial disability resulting from loss of an arm, leg, hand, foot or eye, or of death benefits by an insurance carrier which is a stock corporation or mutual association, [or if any such award made on or after July first, two thousand seven requires payment for permanent partial disability under paragraph w of subdivision three of section fifteen of this article by an insurance carrier which is a stock corporation or mutual association,] which for the purposes of this section shall be known as manda-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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tory type cases, the board shall immediately compute the present value thereof and require payment of such amount into the aggregate trust fund, together with such additional sum as the board may deem necessary for a proportionate payment of expenses of administering such trust fund including the cost of the actuarial computation by or on behalf of the board of the present value of the award provided, however, that where an employer or his insurance carrier is found to be entitled to reimbursement from the special disability fund of subdivision eight of section fifteen OF THIS ARTICLE, the computation of the present value of the award and the requirement for payment of such amount into the said trust fund shall not be mandatory and such cases shall be deemed to be discretionary type cases; further provided that where an employee entitled to compensation under this chapter be injured or killed by the negligence or wrong of another not in the same employ, the computation of the present value and the requirement for payment of such amount into the said trust fund shall be held in abeyance until (1) six months have elapsed from the award of compensation, or in any event not more than one year after the date of the accident, if the injured employee, or in case of death, his personal representatives, spouse, parents, dependents or next of kin, or anyone otherwise entitled to recover damages at common law or otherwise, on account of such injury or death, have failed to commence such action, (2) the termination of any such action brought by the injured employee, or in case of death, his personal representatives, spouse, parents, dependents or next of kin, or anyone otherwise entitled to recover damages, at common law or otherwise, on account of such injury or death, under the provisions of section twenty-nine of this article.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to any award made on or after such date.