

7468

I N S E N A T E

May 23, 2012

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed 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:

1 Section 1. Subdivision 2 of section 27 of the workers' compensation
2 law, as amended by chapter 6 of the laws of 2007, is amended to read as
3 follows:
4 2. If an award under this chapter requires payment of death benefits
5 or other compensation by an insurance carrier or employer in periodical
6 payments, the board may, in its discretion, at any time, any provision
7 of this chapter to the contrary notwithstanding, compute and permit or
8 require to be paid into the aggregate trust fund an amount equal to the
9 present value of all unpaid death benefits or other compensation in
10 cases in which awards are made for total permanent or permanent partial
11 disability for a period of one hundred and four weeks or more, for which
12 liability exists, together with such additional sum as the board may
13 deem necessary for a proportionate payment of expenses of administering
14 the fund so created, including the cost of the actuarial computation by
15 or on behalf of the board of the present value of the award, and for the
16 purposes of this section such cases shall be known as discretionary type
17 cases. If any such award made on or after July first, nineteen hundred
18 thirty-five, requires payment for total permanent disability resulting
19 from the loss of both hands, or both arms, or both feet, or both legs,
20 or both eyes, or of any two thereof, or for permanent partial disability
21 resulting from loss of an arm, leg, hand, foot or eye, or of death bene-
22 fits by an insurance carrier which is a stock corporation or mutual
23 association, [or if any such award made on or after July first, two
24 thousand seven requires payment for permanent partial disability under
25 paragraph w of subdivision three of section fifteen of this article by
26 an insurance carrier which is a stock corporation or mutual associ-
27 ation,] 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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1 tory type cases, the board shall immediately compute the present value
2 thereof and require payment of such amount into the aggregate trust
3 fund, together with such additional sum as the board may deem necessary
4 for a proportionate payment of expenses of administering such trust fund
5 including the cost of the actuarial computation by or on behalf of the
6 board of the present value of the award provided, however, that where an
7 employer or his insurance carrier is found to be entitled to reimburse-
8 ment from the special disability fund of subdivision eight of section
9 fifteen OF THIS ARTICLE, the computation of the present value of the
10 award and the requirement for payment of such amount into the said trust
11 fund shall not be mandatory and such cases shall be deemed to be discre-
12 tionary type cases; further provided that where an employee entitled to
13 compensation under this chapter be injured or killed by the negligence
14 or wrong of another not in the same employ, the computation of the pres-
15 ent value and the requirement for payment of such amount into the said
16 trust fund shall be held in abeyance until (1) six months have elapsed
17 from the award of compensation, or in any event not more than one year
18 after the date of the accident, if the injured employee, or in case of
19 death, his personal representatives, spouse, parents, dependents or next
20 of kin, or anyone otherwise entitled to recover damages at common law or
21 otherwise, on account of such injury or death, have failed to commence
22 such action, (2) the termination of any such action brought by the
23 injured employee, or in case of death, his personal representatives,
24 spouse, parents, dependents or next of kin, or anyone otherwise entitled
25 to recover damages, at common law or otherwise, on account of such inju-
26 ry or death, under the provisions of section twenty-nine of this arti-
27 cle.

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