STATE OF NEW YORK

359--A

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. JACOBSON, SIMON, GOTTFRIED, DeSTEFANO, SAYEGH, GLICK, STECK, ABINANTI, KIM, CUSICK -- Multi-Sponsored by -- M. of A. COOK -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the workers' compensation law, in relation to requiring the workers' compensation board to appoint the uninsured employers' fund as the insurance carrier in cases when the identity of the responsible insurance carrier for the employer cannot be determined within ten days of the filing of a claim and to proceed with hearings and provide notices necessary to process such claim; and to make conforming technical changes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 26-a of the workers' compensation law is amended by adding a new subdivision 6-a to read as follows:

6-a. In the event that the board is unable to determine the identity of the responsible insurance carrier for the employer within ten days of the filing of a new claim, the board shall:

(a) appoint the uninsured employers' fund as the insurance carrier until such time as the identity of the responsible insurance carrier for the employer is determined. Upon such appointment, the uninsured employers' fund shall immediately commence payments and provide medical care in accordance with the provisions of this chapter;

(b) schedule a hearing to determine the identity of the responsible insurance carrier for the employer and to determine such claim for compensation in accordance with the provisions of subdivision one of this section; and

(c) provide notice of such claim and hearing to the employer by certified mail, return receipt requested, with a direction that the employer

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

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provide proof of having insurance in effect as provided by section ten of this article.

§ 2. Subdivision 2 of section 2 of the workers' compensation law, as amended by chapter 113 of the laws of 1946, is amended to read as follows:

2. "Department" means the department of labor of the state of New York;

"Chairman" means the chairman of the [~~workmen's~~] **workers'** compensation board of the state of New York;

"Commissioner" means the industrial commissioner of the state of New York;

"Board" means the [~~workmen's~~] **workers'** compensation board of the state of New York;

"Commissioners" means the commissioners of the state insurance fund of the department of labor of the state of New York.

§ 3. Subdivisions 1 and 2 of section 201 of the workers' compensation law, as added by chapter 600 of the laws of 1949, are amended to read as follows:

1. "Board" means the [~~workmen's~~] **workers'** compensation board created under this chapter.

2. "Chairman" means the chairman of the [~~workmen's~~] **workers'** compensation board of the state of New York.

§ 4. Section 302 of the workers' compensation law, as amended by chapter 788 of the laws of 1951, is amended to read as follows:

§ 302. Definitions. Except as otherwise provided in this article, terms used in this article shall have the meaning given to such terms in articles one to eight, inclusive, of this chapter and in the state defense emergency act.

1. "Civil defense volunteers" shall include those members of the civil defense forces under the provisions of the state defense emergency act who are volunteer persons serving without compensation in the personnel of volunteer agencies.

2. "Authorized civil defense service" for the purposes of this article includes duties and services performed by an air raid warden during attack, actual or imminent, and subsequent to attack, but not during training or practice periods; and duties and services performed by a civil defense volunteer other than an air raid warden following actual attack, but not during training or practice periods or during attack, actual or imminent. For the purposes of this article, such services shall be those authorized by the local director of civil defense in accordance with regulations and orders of the commission or state director of civil defense.

3. "Injury" within the meaning of this article means only accidental injury arising in the course of authorized civil defense service during attack, actual or imminent, or subsequent to attack, and disease or infection that may be sustained or death incurred either as the natural and unavoidable result thereof or of exposure to radiation or to noxious gases or to germ warfare in the course of such authorized service.

4. "Commission" shall mean the state civil defense commission created by article three of the state defense emergency act, and "state director" shall mean the New York state director of civil defense appointed under the provisions of said act.

5. "Board" shall mean the [~~workmen's~~] **workers'** compensation board.

6. "Chairman" shall mean the chairman of the [~~workmen's~~] **workers'** compensation board.

§ 5. Section 140 of the workers' compensation law, as amended by chapter 57 of the laws of 1951, is amended to read as follows:

§ 140. [~~Workmen's~~] Workers' compensation board. The [~~workmen's~~] workers' compensation board in the department of labor is hereby continued. Such board shall consist of thirteen members, at least four of whom shall be attorneys and counsellors-at-law duly admitted to practice in this state. The members of the board shall be appointed by the governor, by and with the advice and consent of the senate. The members of the board in office, together with the additional members and the members appointed to fill vacancies, if any, at the time this section takes effect, shall continue, notwithstanding the appointment of any of the members for a term expiring on a different date, to hold office for terms to be assigned by the governor by and with the advice and consent of the senate; two such terms to expire on December thirty-first, nineteen hundred fifty; two to expire on December thirty-first, nineteen hundred fifty-one; two to expire on December thirty-first, nineteen hundred fifty-two; two to expire on December thirty-first, nineteen hundred fifty-three; two to expire on December thirty-first, nineteen hundred fifty-four; two to expire on December thirty-first, nineteen hundred fifty-five; and one to expire on December thirty-first, nineteen hundred fifty-six. The members next appointed, except to fill a vacancy created otherwise than by expiration of term, shall be appointed for terms of seven years. The governor shall designate one of the members of the board as chairman and another as vice-chairman.

§ 6. This act shall take effect on the sixtieth day after it shall have become a law and shall apply to all claims filed on and after such effective date. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.