

No. 4, A.]

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CHAPTER 637

AN ACT to repeal subsection 4 of section 2394—27, and to create sections 1921—1 to 1921—29, inclusive, and section 20.555 of the statutes, relating to regulation of workmen's compensation insurance rates and classifications, creating a compensation insurance board, and making an appropriation, and providing a penalty.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Subsection 4 of section 2394—27 of the statutes is repealed.

SECTION 2. There are added to the statutes thirty new sections to read: Section 1921—1. The word "company" whenever used in this act means any insurance carrier authorized, by license issued by the department of insurance, to transact the business of workmen's compensation insurance in this state.

Section 1921—2. There is hereby created a board to be known as the "Compensation Insurance Board." Said board shall consist of the commissioner of insurance, one member of the industrial commission to be chosen by that commission, and a third person to be appointed by the governor. The member of the industrial commission shall serve at the pleasure of that commission. The person appointed by the governor shall be versed in the subject of workmen's compensation insurance and in the making of rates therefor. His term shall be for five years and his salary shall be fixed by the governor at a sum not exceeding three thousand five hundred dollars per year. He shall take and file with the secretary of state the constitutional oath of office before entering upon the discharge of his duties.

Section 1921—3. The member of the industrial commission may appoint any other member of that commission to act in his place on said board, and the person so appointed shall have all the rights, powers, and obligations that said member would have if present in person. The members of said board, except the person appointed by the governor, shall serve without compensation other than that received in their regular positions. A majority of said board shall constitute a quorum for the transaction of business and the performance of the duties of the board. The said board shall maintain an office in the department of insurance at the state capitol, but it may hold sessions or conduct investigations at any place in the state other than the capitol when deemed necessary to facilitate the discharge of its duties.

Section 1921—4. The compensation insurance board shall or-

ganize by electing one of its members chairman and another of its members secretary. The secretary shall keep full minutes of all hearings, transactions, and proceedings by or before the said board. The board shall have power to make all needful rules for the orderly performance of its duties, and to prescribe the procedure for the conduct of hearings and other proceedings before it. The board shall also have power to employ such persons as may be necessary for the proper discharge of its duties.

Section 1921—5. In all hearings before, or investigations conducted by said board, any member thereof shall have power to issue subpoenas requiring the attendance of witnesses and the production of books, records, and papers, and shall have power to administer oaths. Any person who shall testify falsely in any material matter under consideration by said board shall be guilty of and punished for perjury. Subpoenas or other process issued by the said board shall be served as a summons in the circuit court. In case any witness shall fail to obey any summons to appear before the board or shall refuse to testify or answer any material question or to produce records, books, papers, or documents when required so to do, such failure or refusal shall be reported to the attorney-general, who shall thereupon institute proceedings in the proper circuit court to compel obedience to any summons or order of the board or to punish witnesses for any such neglect or refusal.

Section 1921—6. Said board shall have power to appoint and authorize any person chosen by it to hold hearings, make investigations and examinations with reference to any subject over which said board has or may have jurisdiction. The person so appointed shall have all the powers in relation to said hearing, investigation or examination that such board would have if itself acting, but shall report in writing the result of such hearing, examination or investigation and any testimony taken by him to the board. Whether such powers are specifically enumerated or not, the said board shall have full power to perform the duties conferred or imposed upon it by law.

Section 1921—7. For the purpose of providing for the solvency of companies writing workmen's compensation insurance in this state the compensation insurance board shall approve a minimum adequate pure premium for each classification under which such business is written. The board shall, in approving such pure premium, make use of the experience which may from time to time be available, and of such other helpful information as may be obtainable. For the purpose of uni-

formity and equality the board shall, after consultation with companies, approve a system of schedule or merit rating for use in writing of such business in this state. No system of schedule or merit rating except the one so approved shall be used in this state. The board shall also approve maximum and minimum expense loadings to be incorporated in premiums collected on such business in this state. In the approval of rates and pure premiums the compensation insurance board shall take into account the fluctuation resulting from the use of schedule or merit rating.

Section 1921—8. The compensation insurance board may at any time require a survey and report by the bureau herein provided for of any risk regarding which complaint may have been made. Its approval of any premium rate or classification may be withdrawn by the board upon ten days' notice to the parties interested. Premium rates or systems of schedule or merit rating shall not take into account the physical impairment of employes or experience rating.

Section 1921—9. No classification for compensation insurance purposes shall be effective until approved as correct by the compensation insurance board. No rule or regulation with reference to compensation risks filed by any company or by the bureau herein provided for shall be effective until approved by such board. If it shall appear at any time that reasonable doubt on the part of the compensation insurance board as to the proper classification or rate for any risk exists, such risk may be bound for insurance subject to rate and classification to be established therefor.

Section 1921—10. Pay roll audits by companies shall show division by classification, if any, and shall be correct as to amount and as to such division and shall be reported to the industrial commission through the compensation insurance board. The board may verify any pay roll audit by a reaudit of the books of the employer or in such other manner as may to it appear most expedient. Upon written complaint stating facts sufficient to warrant action by it, said board shall verify any pay roll audit reported to it.

Section 1921—11. The compensation insurance board shall have power, upon its own motion or upon the written complaint of any person having a direct interest, to review the acts of any company, bureau, or agent subject to the provisions of this section, and to make findings and orders requiring compliance with the provisions hereof. Such review before the board shall be upon due notice to the parties interested, and its findings

or orders shall be made after a hearing before it, and in all cases shall be subject to summary review by the circuit court of Dane county. During such court review the operation of the board's order shall be suspended, but in the event of final determination against an insurer, any overcharge made during the pendency of such proceedings shall be refunded to the person entitled thereto. All written complaints under this section shall be verified, and may be upon information and belief of the person complaining. A copy of such complaint shall be served upon the company, bureau, or person against whom the complaint is directed, and each of such parties in interest shall be entitled to at least ten days' notice of any hearing thereon. When the action is upon the board's own motion any company or person affected shall be entitled to at least ten days' notice of a hearing upon the matter to be inquired into. Any finding or order made by the board as a result of an investigation upon its own motion shall be subject to court review as herein provided.

Section 1921—12. Every company transacting the business of workmen's compensation insurance in this state shall be a member of a bureau to be maintained in this state for the following purposes:

1. To separate the industries of this state that are subjects of workmen's compensation insurance into proper classes for compensation insurance purposes; to make inspections of compensation risks and to apply thereto the schedule or merit rating system approved for use in this state; to establish charges and credits under such system and to make reports showing all facts affecting such risks as the subject of compensation insurance.

2. To assist the compensation insurance board and companies in approving rates, determining hazards, and other material facts in connection with compensation risks and to assist in promoting safety in the industries.

Section 1921—13. The bureau shall be organized by the companies writing workmen's compensation insurance in this state within thirty days after the passage and publication of this act. The commissioner of insurance shall fix a time and place for the first meeting of representatives of such companies to organize the bureau. Notice of such meeting shall be given to each company authorized to write workmen's compensation insurance in this state at least ten days before such meeting. The bureau shall make by-laws for its government and for the government of its members. Such articles and by-laws and all amendments thereto shall be filed with and approved by the

compensation insurance board and shall not be effective until so filed and approved. Such bureau shall admit to membership any company authorized to transact workmen's compensation insurance in this state. The charges and service of such bureau shall be equitable and nondiscriminatory as between member companies.

Section 1921—14. Each company which is a member of such bureau shall pay an equitable and nondiscriminatory share of the cost of operating the bureau. If the members of the bureau cannot agree upon an apportionment of cost, any member may, in writing, petition the compensation insurance board to establish a basis for apportioning such cost. If any member is aggrieved by an apportionment made by the bureau it may, in writing, petition the board for a review of such apportionment. The board shall, upon not less than five days' notice to each member of the bureau, hold a hearing upon any such petition, at which all members shall be entitled to be present and be heard. The board shall determine the matter and mail a copy of its decision to each member of the bureau. The decision of the board shall be final and binding upon all members of the bureau.

Section 1921—15. Each class of insurers, to wit, stock companies, mutual companies, and interinsurers which are members of such bureau shall be represented in the bureau management and on committees as provided in the by-laws, but the participating and nonparticipating companies shall have equal representation on the governing or managing committee and also on the rating committee of the bureau. One-half the members of each committee shall be chosen by the participating companies and one-half by the nonparticipating companies. Each member company shall be entitled to one vote. In case of a tie vote upon any committee the compensation insurance board shall cast the deciding vote.

Section 1921—16. The bureau shall procure annually from the commissioner of insurance a license to carry on its business. The license year for such bureau shall be from March first to the last day of February succeeding. The bureau shall pay to the state, through the commissioner of insurance, an annual license fee of one hundred dollars, such fee to be paid at the time of filing application for license. The commissioner of insurance shall prescribe blanks and make needed regulations governing the licensing of the bureau.

Section 1921—17. The bureau shall annually on or before March first, file with the compensation insurance board a state-

ment covering its activities for the year ending on the preceding thirty-first day of December. Such report shall cover its financial transactions and also other matters connected with its operation as required by the board. The board shall prescribe the form of such report. The bureau shall be subject to supervision and examination by the compensation insurance board or any examiner authorized by it. Examinations may be made as often as deemed expedient. The expense of such examination shall be paid by the bureau.

Section 1921—18. The bureau shall on behalf of all its members assign each compensation risk and subdivision thereof in this state to its proper classification. Such determination as to the proper classification by the bureau shall be subject, however, to the approval of the compensation insurance board as herein provided. The bureau shall also on behalf of all members thereof inspect and make a written survey of each risk to which the system of schedule or merit rating approved for use in this state is applicable. It shall, on behalf of all the members thereof, file with the compensation insurance board its classification of risks and also the written surveys of all risks inspected by it, showing charges and credits if any, and such other facts as are material in the writing of insurance thereon. It shall also file any subsequent proposed classification or later survey and all rules and regulations which do or may affect the writing of such risks. Any company may file with the bureau and the board, rules and regulations governing such company in its writings. The bureau classification shall be binding upon all companies. The compensation insurance board and also the bureau and its representatives shall give all information as to classifications, rates, surveys and other facts collected and intended for the common use of companies subject to this act to all such companies at the same time.

Section 1921—19. The bureau shall keep a careful record of its proceedings. It shall furnish, upon his demand, to any employer upon whose workmen's compensation risk a survey has been made, full information as to such survey including the charges and credits fixed thereby. The bureau shall also provide such means as may be approved by the compensation insurance board whereby any member company or any employer whose risk has been inspected by it may be heard, either in person or by a representative, before its governing or rating committee or other proper representative with reference to any matter affecting such risk. Any company or employer may

appeal from a decision of the bureau to the compensation insurance board. The bureau shall also make rules governing appeals, which rules shall be filed with and approved by the compensation insurance board. The bureau shall file with the compensation insurance board, whenever it may call therefor, such information as it may have concerning any matter connected with its activities.

Section 1921—20. No company shall make or charge any rate for workmen's compensation insurance in this state which discriminates unfairly between risks or which discriminates unfairly between risks in the application of like charges and credits in the plan of schedule or merit rating in use; and no company shall discriminate by granting to any employer insurance against other hazards at less than its regular rates for such insurance, or otherwise.

Section 1921—21. Every company writing workmen's compensation insurance in this state shall file with the compensation insurance board its rates for such insurance and all additions thereto or changes therein. All rates so filed shall comply with the requirements of law and shall not be effective or used until approved as to such compliance by the compensation insurance board. A rate which is filed and approved shall not be changed until the substituted rate has been filed for at least fifteen days and has been approved by the board.

Section 1921—22. Every company writing workmen's compensation insurance in this state shall file with the compensation insurance board a schedule of the expense loading to be collected by it on workmen's compensation business written in this state. Such loading shall be approved by the board as to adequacy and as to compliance with the orders of the board, and it shall not be effective until so approved. All modifications or changes in such loading shall also be filed with and approved by the board before becoming effective.

Section 1921—23. In fixing a rate for any classification, no company shall use a pure premium less than that approved as adequate by the compensation insurance board for that classification. Any company may in fixing a rate for any classification use a pure premium higher than that established by the compensation insurance board for that classification.

Section 1921—24. No company shall write insurance at a rate other than that approved for it as adequate by the compensation insurance board; provided, however, that a rate may be reduced or increased by the application to individual risks of

the system of schedule or merit rating which has been approved by the board. Such reduction or increase shall be set forth in the policy or by an endorsement thereon.

Section 1921—25. Every company writing workmen's compensation insurance in this state shall report its writings to the compensation insurance board. The board shall prescribe forms for and make rules governing agents and companies in making such reports. Such reports shall be checked by the board, and upon being approved as complying with law, shall be filed with the industrial commission. No information regarding the writings of any company shall be made public by said board or any of its employes except as required by law.

Section 1921—26. Every company insuring the liability of employers for compensation shall file with the compensation insurance board such information regarding insurance written by it on risks located in this state as such board may from time to time require.

Section 1921—27. The rates for workmen's compensation insurance filed with the industrial commission when this act goes into effect shall be binding upon the company filing them until revised or changed under sections 1921—1 to 1921—29, inclusive, or by an order of the compensation insurance board.

Section 1921—28. Any company, rating bureau, agent, or other representative or employe of any company or rating bureau failing to comply with or which is guilty of a violation of any of the provisions of sections 1921—1 to 1921—29, inclusive, or of any order or ruling of the commissioner of insurance or of the compensation insurance board made hereunder, shall be punished by a fine of not less than fifty nor more than five hundred dollars. In addition thereto, the license of any company, agent, or broker guilty of such violation may be revoked or suspended by the commissioner of insurance.

Section 1921—29. This act shall not apply to contractors' class mutual companies where the premiums are fixed, assessed and collected on the basis of the contract price of construction, building or repairing.

Section 20.555 There is appropriated from the general fund to the compensation insurance board, annually, beginning July 1, 1917, not to exceed thirteen thousand five hundred dollars, to carry out the provisions of sections 1921—1 to 1921—28, inclusive.

SECTION 3. This act shall take effect from and after August 1, 1917.

Approved June 30, 1917.