

Amendments to Senate Bill No.
Reference Copy

Requested by Senator Jim Keane

For the Senate Free Conference Committee

Prepared by Pat Murdo
April 23, 2013 (8:12am)

1. Title, page 1, line 6.

Following: "LAWS;"

Insert: "AUTHORIZING THE STATE OF MONTANA TO OBTAIN WORKERS' COMPENSATION COVERAGE UNDER PLAN NO. 2 OR PLAN NO. 3; AUTHORIZING THE STATE COMPENSATION INSURANCE FUND TO INSURE ITS EMPLOYEES UNDER PLAN NO. 3 IF THE DEPARTMENT OF ADMINISTRATION ELECTS COVERAGE FOR OTHER STATE AGENCIES UNDER PLAN NO. 2;"

2. Title, page 1, line 7 through line 8.

Strike: "A ONE-TIME" on line 7 through "PRIOR TO USING" on line 8

3. Title, page 1, line 10.

Strike: "2013"

Insert: "1990"

4. Title, page 1, line 19.

Following: "SECTIONS"

Insert: "39-71-403, 39-71-2201,"

5. Page 1.

Following: line 22

Insert: "Section 1. Section 39-71-403, MCA, is amended to read:

~~"39-71-403. Plan three exclusive for state agencies -- election of plan by public corporations State agency coverage -- public corporation coverage -- financing of self-insurance fund -- exemption for university system -- definitions -- rulemaking.~~

(1) (a) Except as provided in [section 3] and subsection (5), ~~if a state agency is the employer, the terms, conditions, and provisions of compensation plan No. 3, state fund, are exclusive, compulsory, and obligatory upon both employer and employee.~~ of this section, the department of administration shall elect workers' compensation insurance coverage on behalf of all state agencies and manage the coverage under the terms, conditions, and provisions of compensation plan No. 2 or plan No. 3. The state agency is the employer for purposes of the compensation plan selected pursuant to this section. Any sums necessary to be paid under the provisions of this chapter by a state agency are considered to be ordinary and necessary expenses of the state agency. The state agency shall pay the sums ~~into the state fund~~

at the time and in the manner provided for in this chapter, notwithstanding that the state agency may have failed to anticipate the ordinary and necessary expense in a budget, estimate of expenses, appropriations, ordinances, or otherwise.

(b) (i) ~~Subject to subsection (5), the department of administration, provided for in 2-15-1001, shall manage~~ The department of administration shall elect coverage under one compensation plan to provide workers' compensation insurance coverage for all state agencies except the state compensation insurance fund if the state compensation insurance chooses a plan No. 2 insurer. The plan selected by the department of administration is to be exclusive, compulsory, and obligatory upon both the employer and the employee.

(ii) ~~The state fund plan No. 2 or plan No. 3 insurer shall~~ provide the department of administration with all information regarding the state agencies' coverage.

(iii) Notwithstanding the status of a state agency as employer in subsection (1)(a) and contingent upon mutual agreement between the department of administration and the ~~state fund, the state fund plan No. 2 or plan No. 3 insurer, the plan No. 2 or plan No. 3 insurer shall issue one or more policies for all state agencies.~~

(iv) In any year in which the workers' compensation premium due from a state agency is lower than in the previous year, the appropriation for that state agency must be reduced by the same amount that the workers' compensation premium was reduced and the difference must be returned to the originating fund instead of being applied to other purposes by the state agency submitting the premium.

(2) (a) ~~A public corporation, other than a state agency, may elect coverage under compensation plan No. 1, plan No. 2, or plan No. 3, separately or jointly with any other public corporation, other than a state agency or with the department of administration as provided in subsection (2)(b).~~

(b) Except as provided in [section 3], the department of administration, on behalf of all state agencies, may join with a public corporation to elect coverage under compensation plan No. 2 or plan No. 3. Until notes or bonds described in subsection (3)(a) are fully paid, the funds described in subsection (3)(a) must remain separate from the funds paid to the department of administration by state agencies.

(c) A public corporation, if electing coverage under compensation plan No. 1, may purchase reinsurance or issue bonds or notes pursuant to subsection (3)(b). A public corporation electing coverage under compensation plan No. 1 is subject to the same provisions as a private employer electing compensation plan No. 1.

(3) (a) ~~A public corporation, other than a state agency, that elects coverage under plan No. 1 may establish a fund sufficient to pay the compensation and benefits provided for in this chapter and to discharge all liabilities that are reasonably~~

incurred during the fiscal year for which the election is effective. Proceeds from the fund ~~must~~ may be used only to pay claims covered by this chapter and for actual and necessary expenses required for the efficient administration of the fund, including debt service on any bonds and notes issued pursuant to subsection (3)(b).

(b) (i) A public corporation, ~~other than a state agency,~~ separately or jointly with another public corporation, ~~other than a state agency,~~ may issue and sell its bonds and notes for the purpose of establishing, in whole or in part, the self-insurance workers' compensation fund provided for in subsection (3)(a) and to pay the costs associated with the sale and issuance of the bonds. Bonds and notes may be issued in an amount not exceeding 0.18% of the total assessed value of taxable property, determined as provided in 15-8-111, of the public corporation as of the date of issue. The bonds and notes must be authorized by resolution of the governing body of the public corporation and are payable from an annual property tax levied in the amount necessary to pay principal and interest on the bonds or notes. This authority to levy an annual property tax exists despite any provision of law or maximum levy limitation, including 15-10-420, to the contrary. The revenue derived from the sale of the bonds and notes may not be used for any other purpose.

(ii) The bonds and notes:

- (A) may be sold at public or private sale;
- (B) do not constitute debt within the meaning of any statutory debt limitation; and
- (C) may contain other terms and provisions that the governing body determines.

(iii) Two or more public corporations, ~~other than state agencies,~~ may agree to exercise their respective borrowing powers jointly under this subsection (3)(b) or may authorize a joint board to exercise the powers on their behalf.

(iv) The fund established from the proceeds of bonds and notes issued and sold under this subsection (3)(b) may, if sufficient, be used in lieu of a surety bond, reinsurance, specific and aggregate excess insurance, or any other form of additional security necessary to demonstrate the public corporation's ability to discharge all liabilities as provided in subsection (3)(a). Subject to the total assessed value limitation in subsection (3)(b)(i), a public corporation may issue bonds and notes to establish a fund sufficient to discharge liabilities for periods greater than 1 year.

(4) All money in the fund established under subsection (3)(a) not needed to meet immediate expenditures must be invested by the governing body of the public corporation or the joint board created by two or more public corporations as provided in subsection (3)(b)(iii), and all proceeds of the investment must be credited to the fund.

(5) For the purposes of subsection ~~(1)(b)~~ (1)(a), the judicial branch or the legislative branch may choose not to have

the department of administration manage its workers' compensation policy.

(6) The department of administration may adopt rules to implement ~~subsection (1)(b)(i)~~ this section.

(7) As used in this section, the following definitions apply:

(a) "Public corporation" ~~includes~~ has the meaning provided in 39-71-116 except that a state agency is excluded and the Montana university system is included.

(b) (i) "State agency" means:

(A) the executive branch and its departments and all boards, commissions, committees, bureaus, and offices;

(B) the judicial branch; and

(C) the legislative branch.

(ii) The term does not include the Montana university system."

{ Internal References to 39-71-403:

39-71-2201a }

Insert: "Section 2. Section 39-71-2201, MCA, is amended to read:

"39-71-2201. Election to be bound by plan -- captive reciprocal insurers. (1) Any employer ~~except those specified in 39-71-403~~ may, by filing an election to become bound by compensation plan No. 2, insure the employer's liability to pay the compensation and benefits provided by this chapter with any insurance company authorized to transact such workers' compensation business in this state.

(2) Any employer electing to become bound by compensation plan No. 2 shall make the election on the form and in the manner prescribed by the department.

(3) A captive reciprocal insurer established by or on behalf of an employer or a group of employers is considered to be a compensation plan No. 2 insurer. Pursuant to 33-28-205, a captive reciprocal insurer may not be a member of an insurance guaranty association or guaranty fund."

{ Internal References to 39-71-2201:

39-71-2215x }

Insert: "NEW SECTION. **Section 3. State compensation insurance fund options.** If the department of administration elects coverage under plan No. 2 under the provisions of 39-71-403, the state fund may choose to provide and manage workers' compensation coverage for its employees under plan No. 3. If the state fund exercises this option, the state fund is exempt from 39-71-403 for the purposes of 39-71-2314. For the purposes of this chapter, upon exercising the option under this section, the state fund is the employer and the terms, conditions, and provisions of plan No. 3 are exclusive, compulsory, and obligatory upon both the employer and the employee."

Renumber: subsequent sections

6. Page 3, line 6.

Strike: "EMPLOYEE OR"

7. Page 3, lines 7 through 8.

Strike: "TO" on line 7

Insert: "at a meeting of"

Strike: "IN A PUBLIC HEARING," on line 7 through "COMMENT," on line 8

8. Page 3, line 14.

Following: "ADJUSTMENTS"

Insert: "for all employees"

9. Page 3, line 18.

Following: the first "THE"

Insert: "degree of"

10. Page 5, line 10.

Strike: "AFTER THE ONE-TIME" through "FUND, ALL"

Insert: "All"

11. Page 5, lines 14 through 15.

Strike: "AFTER EXPENDING" on line 14 through "TRANSFER" on line 15

Insert: "Subject to subsection (3), the state fund's equity or surplus, as that term is used in 39-71-2323, that has accrued from income other than premiums paid to the state fund based upon wages payable on or after July 1, 1990, must be used"

12. Page 5, lines 16 through 19.

Following: "1990" on line 16

Strike: ", the state fund's assets" on line 16 through "funded" on line 19

13. Page 6, lines 27 through 29.

Strike: section 6 in its entirety

Insert: "NEW SECTION. Section 9. {standard} Codification instruction. [Section 3] is intended to be codified as an integral part of Title 39, chapter 71, part 23, and the provisions of Title 39, chapter 71, part 23, apply to [section 3]."

Renumber: subsequent section

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