

SENATE BILL NO. 273
INTRODUCED BY J. TESTER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE MANAGEMENT OF THE STATE COMPENSATION INSURANCE FUND; REVISING THE SIZE AND MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE STATE COMPENSATION INSURANCE FUND; CLARIFYING THE APPLICABILITY OF STATE LAWS APPLICABLE TO EXECUTIVE BRANCH AGENCIES TO THE STATE COMPENSATION INSURANCE FUND; LIMITING THE BASE SALARY OF THE EXECUTIVE DIRECTOR AND MANAGEMENT STAFF OF THE STATE FUND TO NO MORE THAN 125 PERCENT OF THE BASE SALARY OF COMPARABLE POSITIONS IN THE EXECUTIVE BRANCH; CLARIFYING THAT THE EXECUTIVE DIRECTOR AND MANAGEMENT STAFF MAY NOT RECEIVE BONUSES TO CIRCUMVENT BASE SALARY LIMITS; CLARIFYING THAT THE STATE COMPENSATION INSURANCE FUND MAY NOT PROVIDE BENEFITS IN EXCESS OF THOSE AUTHORIZED FOR OTHER STATE EMPLOYEES; AMENDING SECTIONS 2-15-1019, 39-71-2314, 39-71-2315, AND 39-71-2317, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-1019, MCA, is amended to read:

"2-15-1019. Board of directors of state compensation insurance fund. (1) There is a board of directors of the state compensation insurance fund.

(2) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may employ its own staff.

(3) The board may provide for its own office space and the office space of the state fund.

(4) The board consists of ~~seven~~ five members appointed by the governor. The executive director of the state fund, the majority leader of the senate, and the minority leader of the senate ~~is an~~ are ex officio nonvoting ~~member~~ members.

(5) ~~At least four of the seven members~~ One member must represent state fund policyholders and may be ~~employees~~ an employee of a state fund policyholders policyholder. One member must represent organized labor. One member must represent residents who pay income taxes. One member must represent the personnel division of the department of administration. ~~At least four members of the board shall represent private, for-profit~~

~~enterprises. One of the seven members may~~ member must be a licensed insurance producer who offers workers' compensation insurance. A member of the board may not:

(a) except for the licensed insurance producer member, represent or be an employee of an insurance company that is licensed to transact workers' compensation insurance under compensation plan No. 2; or

(b) be an employee of a self-insured employer under compensation plan No. 1.

(6) A member is appointed for a term of 4 years. The terms of board members must be staggered. A member of the board may serve no more than two 4-year terms. A member shall hold office until a successor is appointed and qualified or the composition of the board is changed by law.

(7) The members must be appointed and compensated in the same manner as members of a quasi-judicial board as provided in 2-15-124, except that the requirement that at least one member be an attorney does not apply. The ex officio legislative members must be compensated pursuant to 5-2-301."

Section 2. Section 39-71-2314, MCA, is amended to read:

"39-71-2314. State fund subject to laws applying to state agencies. The state fund is subject to laws that generally apply to state agencies, including but not limited to Title 2, chapters 2, 3, 4 (only as provided in 39-71-2316), ~~and 6, and 18, and~~ Title 5, chapter 13, ~~and Title 19, chapter 3~~. The state fund is not exempt from a law that applies to state agencies unless that law specifically exempts the state fund by name and clearly states that it is exempt from that law. The state fund may not provide benefits in excess of those authorized for other state employees."

Section 3. Section 39-71-2315, MCA, is amended to read:

"39-71-2315. Management of state fund -- powers and duties of the board -- business plan required. (1) The management and control of the state fund is vested solely in the board.

(2) The board is vested with full power, authority, and jurisdiction over the state fund. ~~The~~ Subject to state law, the board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the state fund, either in the administration of the state fund or in connection with the insurance business to be carried on under the provisions of this part, as fully and completely as the governing body of a private mutual insurance carrier, in order to fulfill the objectives and intent of this part. Bonds may not be issued by the board, the state fund, or the executive director.

(3) The board shall adopt a business plan no later than June 30 for the next fiscal year. At a minimum, the plan must include:

(a) specific goals for the fiscal year for financial performance. The standard for measurement of financial ~~performances~~ performance must include an evaluation of premium to surplus.

(b) specific goals for the fiscal year for operating performance. Goals must include but not be limited to specific performance standards for staff in the area of senior management, underwriting, and claims administration. Goals must, in general, maximize efficiency, economy, and equity as allowed by law.

(4) The business plan must be available upon request to the general public for a fee not to exceed the actual cost of publication. ~~However, performance goals relating to a specific employment position are confidential and not available to the public.~~

(5) No sooner than July 1 or later than October 31, the board shall convene a public meeting to review the performance of the state fund, using the business plan for comparison of all the established goals and targets. The board shall publish, by November 30 of each year, a report of the state fund's actual performance as compared to the business plan.

(6) The state fund board of directors shall establish in-house guidelines for procurement of insurance-related services and shall include guidelines for the solicitation of submissions of information regarding insurance-related services from more than one vendor. The board may include guidelines for the circumstances when business necessity or expedience may preclude the solicitation of submissions from more than one vendor. The board may also include in the guidelines the exemptions to the procurement process in 18-4-132."

Section 4. Section 39-71-2317, MCA, is amended to read:

"39-71-2317. Appointment of executive director -- management staff. (1) The board shall appoint an executive director of the state fund who has general responsibility for the operations of the state fund. The executive director must have executive level experience, with knowledge of the insurance industry. The executive director must receive ~~compensation~~ a salary as set by the board and serve at the pleasure of the board. The base salary of the executive director may not exceed 125% of the salary for a director, as defined in 2-15-102, who is appointed by the governor.

(2) The executive director may hire the management staff of the state fund, each of whom serves at the pleasure of the executive director. The base salary for management staff may not exceed 125% of the salary for comparable positions in the executive branch as determined by the department of administration. The executive director may contract with the department of administration to conduct a salary survey for comparable positions in the executive branch.

(3) The executive director or member of the management staff may not receive a bonus that would cause

a base salary to exceed the limit provided for in this section.

(4) As used in this section, "base salary" has the meaning provided in 2-18-101."

NEW SECTION. Section 5. Transition to staggered terms. In order to implement [section 1], of the initial appointments to the board, the governor shall appoint one member to a term of 1 year, one member to a term of 2 years, one member to a term of 3 years, and two members to terms of 4 years.

NEW SECTION. Section 6. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

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