

HOUSE BILL NO. 757  
INTRODUCED BY D. RICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE STATE COMPENSATION INSURANCE FUND; LIMITING THE AUTHORITY OF THE BOARD OF DIRECTORS OF THE STATE COMPENSATION INSURANCE FUND; REVISING THE METHOD FOR CALCULATING PAYROLL ON WHICH PREMIUMS ARE BASED; AMENDING SECTIONS 39-71-2316 AND 39-71-2336, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 39-71-2316, MCA, is amended to read:

**"39-71-2316. Powers of state fund.** (1) For the purposes of carrying out its functions, the state fund may:

(a) insure any employer for workers' compensation and occupational disease liability as the coverage is required by the laws of this state and, as part of the coverage, provide related employers' liability insurance upon approval of the board;

(b) sue and be sued;

(c) enter into contracts relating to the administration of the state fund, including claims management, servicing, and payment;

(d) collect and disburse money received;

(e) adopt classifications and charge premiums for the classifications so that the state fund will be neither more nor less than self-supporting. Premium rates for classifications may be adopted and changed only by using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts 2 through 4. After the rules have been adopted, the state fund need not follow the rulemaking provisions of Title 2, chapter 4, when changing classifications and premium rates. The contested case rights and provisions of Title 2, chapter 4, do not apply to an employer's classification or premium rate. The state fund is required to belong to a licensed workers' compensation advisory organization or a licensed workers' compensation rating organization under Title 33, chapter 16, part 4, and may use the classifications of employment adopted by the designated workers' compensation advisory organization, as provided in Title 33, chapter 16, part 10, and corresponding rates as a basis for setting its own rates. Except as provided in Title 33, chapter 16, part 10, a workers' compensation

advisory organization or a licensed workers' compensation rating organization under Title 33, chapter 16, part 4, or other person may not, without first obtaining the written permission of the employer, use, sell, or distribute an employer's specific payroll or loss information, including but not limited to experience modification factors.

(f) pay the amounts determined to be due under a policy of insurance issued by the state fund;

(g) hire personnel;

(h) declare dividends if there is an excess of assets over liabilities. However, dividends may not be paid until adequate actuarially determined reserves are set aside.

(i) adopt and implement one or more alternative personal leave plans pursuant to 39-71-2328;

(j) upon approval of the board, contract with licensed resident insurance producers;

(k) upon approval of the board, enter into agreements with licensed workers' compensation insurers, insurance associations, or insurance producers to provide workers' compensation coverage in other states to Montana-domiciled employers insured with the state fund;

~~(l) upon approval of the board, expend funds for scholarship, educational, or charitable purposes;~~

~~(m)~~(l) upon approval of the board, including terms and conditions, provide employers coverage under the federal Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901, et seq., the federal Merchant Marine Act, 1920 (Jones Act), 46 U.S.C. 688, and the federal Employers' Liability Act, 45 U.S.C. 51, et seq.;

~~(n)~~(m) perform all functions and exercise all powers of a private insurance carrier that are necessary, appropriate, or convenient for the administration of the state fund, except that neither the state fund nor the board may authorize the payment of employee bonuses or incentives or authorize activities unrelated to the administration of the state fund.

(2) The state fund shall include a provision in every policy of insurance issued pursuant to this part that incorporates the restriction on the use and transfer of money collected by the state fund as provided for in 39-71-2320."

**Section 2.** Section 39-71-2336, MCA, is amended to read:

**"39-71-2336. Manner of electing -- contract or policy of insurance -- payment of premium. (1)(a)**

The state fund shall prescribe the procedure by which an employer may elect to be bound by compensation plan No. 3, the effective time of the election, and the manner in which the election is terminated for reasons other than default in payment of premiums.

(b) Every employer electing to be bound by compensation plan No. 3 must receive from the state fund a contract or policy of insurance in a form approved by the department.

(c) All Montana operations of an employer, as defined in 39-71-117, covered by compensation plan No. 3 must be insured by the state compensation insurance fund. The premium must be paid by the employer to the state fund at times that the state fund prescribes and must be paid over by the state fund to the state treasurer to the credit of the state fund.

(2) The estimated payroll on which premiums are based and used for a renewal policy may not be determined by applying an automatic increase."

NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2007.

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