SENATE BILL NO. 398

INTRODUCED BY J. KEANE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE FUND SURPLUS PAYMENT LAWS; REQUIRING A DIVIDEND PAYMENT FOR 2 FISCAL YEARS UNDER CERTAIN CONDITIONS; REQUIRING THE STATE FUND TO PAY A REVIEW FEE TO THE STATE AUDITOR; AMENDING SECTIONS 39-71-2311 AND 39-71-2323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

Section 1. Section 39-71-2311, MCA, is amended to read:

"39-71-2311. Intent and purpose of plan -- expense constant defined. (1) It is the intent and purpose of the state fund to allow employers an option to insure their liability for workers' compensation and occupational disease coverage with the state fund. The state fund must be neither more nor less than self-supporting. Premium rates must be set at least annually at a level sufficient to ensure the adequate funding of the insurance program, including the costs of administration, benefits, and adequate reserves, during and at the end of the period for which the rates will be in effect. In determining premium rates, the state fund shall make every effort to adequately predict future costs. When the costs of a factor influencing rates are unclear and difficult to predict, the state fund shall use a prediction calculated to be more than likely to cover those costs rather than less than likely to cover those costs. The prediction must take into account the goal of pooling risk and may not place an undue burden on employers that are not eligible for the tier with the lowest-rated premium for workers' compensation purposes.

(2) Unnecessary surpluses that are created by the imposition of premiums found to have been set higher than necessary because of a high estimate of the cost of a factor or factors ~~may be refunded by the declaration of a dividend as provided in this part~~ <u>are subject to the provisions of 39-71-2320 and 39-71-2323</u>. For the purpose of keeping the state fund solvent, the board of directors may implement multiple rating tiers as provided in 39-71-2330 and may assess an expense constant, a minimum premium, or both.

(3) As used in this section, "expense constant" means a premium charge applied to each workers' compensation policy to pay expenses related to issuing, servicing, maintaining, recording, and auditing the policy."

Section 2. Section 39-71-2323, MCA, is amended to read:

"39-71-2323. Surplus in state fund -- payment of dividends -- mandatory payment -- fee paid to state auditor. (1) Subject to the provisions of 39-71-2316 and subsection (2) of this section, if at the end of any fiscal year there exists in the state fund account created by 39-71-2321 for claims for injuries resulting from accidents that occur on or after July 1, 1990, an excess of assets over liabilities, including necessary reserves and an appropriate surplus as determined by the board in accordance with 39-71-2330, and if the excess may be refunded safely, then the board, after consultation with the independent actuary engaged pursuant to 39-71-2330, may declare a dividend. The rules of the state fund must prescribe the manner of payment to those employers who have paid premiums into the state fund in excess of liabilities.

(2) (a) The state fund shall declare and pay dividends for the fiscal year beginning July 1, 2015, and for the fiscal year beginning July 1, 2016. Each dividend must be at least $50 million if the state fund's equity or surplus is projected to be more than $375 million after payment of each dividend.

(b) After July 1, 2017, the state auditor shall review the dividends paid by the state fund under this subsection (2) and make a recommendation on whether additional dividends are actuarially justified. The state fund shall pay the state auditor a $5,000 fee for the review."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 4. Termination.** [This act] terminates December 31, 2017.

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