

## 1 SENATE BILL NO. 322

2 INTRODUCED BY K. BOGNER

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE MONTANA  
 5 STATE FUND; REVISING LAWS RELATING TO WORKERS' COMPENSATION INSURANCE PROVIDED BY  
 6 THE STATE FUND IN THIS STATE; REVISING LAWS RELATED TO THE MANAGEMENT AND CONTROL  
 7 OF THE STATE FUND BOARD; PROHIBITING THE STATE FUND FROM ENTERING INTO CERTAIN  
 8 CONTRACTS IN OTHER STATES; AMENDING SECTIONS 39-71-2313, 39-71-2315, AND 39-71-2316, MCA;  
 9 AND PROVIDING AN APPLICABILITY DATE."

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

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 13 **Section 1.** Section 39-71-2313, MCA, is amended to read:

14 **"39-71-2313. State compensation insurance fund created -- obligation to insure.** (1) There is a  
 15 state compensation insurance fund known as the state fund that is a nonprofit, independent public corporation  
 16 established for the purpose of allowing an option for employers to insure their liability for workers' compensation  
 17 and occupational disease coverage under this chapter.

18 (2) The state fund is required to insure any employer in this state who requests coverage for workers'  
 19 compensation in this state, and it may not refuse to provide coverage unless an employer or the employer's  
 20 principals have defaulted on a state fund obligation and the default remains unsatisfied."

21  
 22 **Section 2.** Section 39-71-2315, MCA, is amended to read:

23 **"39-71-2315. Management of state fund -- powers and duties of board -- business plan**  
 24 **required.** (1) The management and control of the state fund is vested in the board, subject to the statutory  
 25 limitations imposed by this part.

26 (2) The board is vested with full power, authority, and jurisdiction over the state fund except that the  
 27 board may not dissolve or liquidate the state fund. To fulfill the objectives and intent of this part, the board may  
 28 perform all acts necessary or ~~convenient~~ appropriate in the exercise of any power, authority, or jurisdiction over

1 the administration of the state fund or in connection with the insurance business to be carried on under the  
 2 provisions of this part, as fully and completely as the governing body of a private mutual insurance carrier and  
 3 subject to the regulatory authority of the insurance commissioner in Title 33, except as provided in 33-1-115  
 4 and 39-71-2375.

5 (3) Neither the board, the state fund, nor the executive director may issue bonds on behalf of the state  
 6 fund.

7 (4) The board, the state fund, or the executive director may not enter into agreements with licensed  
 8 workers' compensation insurers, insurance associations, insurance producers, managing general agents, or  
 9 employers to provide workers' compensation coverage in other states.

10 ~~(4)(5)~~ (a) The board shall adopt a business plan no later than December 31 for the next fiscal year.

11 (b) At a minimum, the plan must include:

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

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

17 ~~(5)(6)~~ The business plan must be available upon request to the general public for a fee not to exceed  
 18 the actual cost of publication. However, performance goals relating to a specific employment position are  
 19 confidential and not available to the public.

20 ~~(6)(7)~~ No sooner than January 1 or later than March 31, the board shall convene a public meeting to  
 21 review the performance of the state fund, using the business plan for comparison of all the established goals  
 22 and targets. The board shall publish, by May 30 of each year, a report of the state fund's actual performance as  
 23 compared to the business plan.

24 ~~(7)(8)~~ The ~~state fund~~ board of directors shall establish in-house guidelines for procurement of  
 25 insurance-related services and shall include guidelines for the solicitation of submissions of information  
 26 regarding insurance-related services from more than one vendor. The board may include guidelines for the  
 27 circumstances when business necessity or expedience may preclude the solicitation of submissions from more  
 28 than one vendor. The board may also include in the guidelines the exemptions to the procurement process in

1 18-4-132."

2

3 **Section 3.** Section 39-71-2316, MCA, is amended to read:

4 **"39-71-2316. Powers of state fund.** (1) For the purposes of carrying out its functions, the state fund  
5 may:

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

9 (b) sue and be sued;

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

12 (d) collect and disburse money received;

13 (e) except as provided in subsection (1)(f), use the uniform classification system as required in 33-16-  
14 1023 and charge premiums for the classifications so that the state fund will be neither more nor less than self-  
15 supporting;

16 (f) continue the use of special classification codes that were in use prior to January 1, 2016, for  
17 agriculture, municipalities, towns, cities, counties, and state agencies. The board shall file with the  
18 commissioner rates and supplementary rate information for these special classifications.

19 (g) use the uniform experience rating plan provided for in 33-16-1023, except upon approval of the  
20 board may adopt experience modification thresholds for use by the state fund for its insured employers;

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

22 (i) hire personnel;

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

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

26 ~~(l) upon approval of the board, contract with licensed resident insurance producers;~~

27 ~~(m) upon approval of the board, enter into agreements with licensed workers' compensation insurers,~~  
28 ~~insurance associations, or insurance producers to provide workers' compensation coverage in other states to~~

1 ~~Montana-domiciled employers insured with the state fund;~~

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

3 ~~(m)~~ upon approval of the board, including terms and conditions, provide employers coverage under

4 the federal Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901, et seq., the federal Merchant

5 Marine Act, 1920 (Jones Act), 46 U.S.C. 688, and the federal Employers' Liability Act, 45 U.S.C. 51, et seq.;

6 and

7 ~~(n)~~ perform all functions and exercise all powers of a private insurance carrier that are ~~necessary,~~

8 necessary or appropriate,~~or convenient~~ for the administration of the state fund.

9 (2) The state fund shall contract with all resident licensed insurance producers to sell state fund

10 coverage, the compensation for which may not exceed the residual market production commission level of the

11 advisory organization appointed by the commissioner under Title 33, chapter 16, part 10.

12 ~~(2)(3)~~ The state fund shall include a provision in every policy of insurance issued pursuant to this part

13 that incorporates the restriction on the use and transfer of money collected by the state fund as provided for in

14 39-71-2320."

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16 NEW SECTION. Section 4. Applicability. [This act] applies to contracts entered into or renewed on

17 or after October 1, 2021.

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