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As of: June 25, 2010 (4:28pm)

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**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act allowing the state of Montana to choose workers' compensation insurance coverage under plan No. 1, plan No. 2, or plan No. 3; amending section 39-71-403, MCA; and providing a delayed effective date."

Be it enacted by the Legislature of the State of Montana:

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

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

(1) (a) ~~Except as provided in subsection (5), if a~~ Subject to subsection (8), the department of administration, established under 2-15-1001, on behalf of all state agencies may elect coverage under compensation plan No. 1, plan No. 2, or plan No. 3, separately or jointly with a public corporation.

(b) If the department of administration pursuant to subsection (1)(a) elects coverage under plan No. 1, the department of administration:

(i) may purchase reinsurance;

(ii) may, through the board of investments, purchase bonds or notes to cover unfunded liabilities caused by a catastrophic

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event;

(iii) shall establish a proprietary fund type to be used to:

(A) pay the compensation and benefits provided for in this chapter;

(B) discharge all liabilities that are reasonably incurred during the fiscal year for which the election is effective;

(C) pay for the costs of reinsurance or the costs associated with the sale and issuance of bonds provided for in subsection (1)(b)(ii); and

(D) pay assessments required under this chapter of any other plan No. 1 insurer; and

(iv) is not subject to Title 39, chapter 71, part 21.

(c) For any compensation plan chosen by the department of administration on behalf of all state agencies, subject to subsection (8), the state agency is the employer, and the terms, conditions, and provisions of compensation plan No. 3, state fund, the elected compensation plan are exclusive, compulsory, and obligatory upon both employer and employee.

(d) 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 agency. The agency shall pay the sums into the state proprietary fund established in subsection (1)(b) 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)(e) (i) Subject to subsection (5)(8), the department of

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administration, ~~provided for in 2-15-1001,~~ shall manage workers' compensation insurance coverage for all state agencies.

(f) If the department of administration elects coverage under compensation plan No. 2, the department of administration is exempt from the provisions of 39-71-2201.

~~(ii)(g) The~~ If the department of administration elects coverage under compensation plan No. 3, the state fund shall provide the department of administration with all information regarding the state agencies' coverage.

~~(iii)(h) Notwithstanding the status of a state agency as employer in subsection (1)(a) (1)(c) and contingent upon mutual agreement between the department of administration and the state fund, the state fund~~ elected compensation plan, the elected compensation plan shall issue one or more policies for all state agencies.

(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.

(b) A public corporation electing compensation plan No. 1 may purchase reinsurance or issue bonds or notes pursuant to subsection (3) (b).

(c) A public corporation electing 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 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 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)~~ (4) The bonds and notes described in subsections (1) and (3):

(A) may be sold at public or private sale;

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(B) do not constitute debt within the meaning of any statutory debt limitation; and

(C) for bonds described in subsection (3) may contain other terms and provisions that the governing body determines.

~~(iii)~~ (5) 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)~~ (6) 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)~~ (7) (a) All money in the fund established under subsection (1)(b) or (3)(a) not needed to meet immediate expenditures must be invested as provided in subsection (7)(b). All proceeds of the investment must be credited to the fund.

(b) (i) The board of investments shall administer the fund established under subsection (1)(b). ~~by the~~

(ii) 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

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~~investment must be credited to the fund (5) shall invest the proceeds of a fund established under subsection (3)(a).~~

~~(5)(8)~~ For the purposes of subsection ~~(1)(b)~~ (1), the judicial branch or the legislative branch may choose not to have the department of administration manage its workers' compensation policy.

~~(6)(9)~~ The department of administration may adopt rules to implement subsection ~~(1)(b)(i)~~.

~~(7)(10)~~ As used in this section, the following definitions apply:

(a) "Public corporation" includes the Montana university system.

(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:
39-71-2201x}

NEW SECTION. **Section 2. {standard} Delayed effective date.**

[This act] is effective July 1, 2013.

- END -

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