

SENATE BILL NO. 14

INTRODUCED BY WILLIAMS

BY REQUEST OF THE JOINT SELECT COMMITTEE ON

WORKERS' COMPENSATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A SELF-INSURED EMPLOYER UNDER WORKERS' COMPENSATION PLAN NO. 1 THE OPTION OF PROVIDING A CERTIFICATE OF DEPOSIT AS SECURITY; AMENDING SECTION 39-71-2106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 39-71-2106, MCA, is amended to read:

"39-71-2106. Requiring security of employer. (1) The department may require any employer who elects to be bound by compensation plan No. 1 to provide a security deposit. Such The security deposit may be a surety bond, government bond, certificate of deposit, or letter of credit approved by the department and must be the greater of:

(a) \$250,000; or

(b) an average of the workers' compensation liabilities incurred by the employer in Montana for the past 3 calendar years.

(2) If--the--department--finds--that--an--employer--has--lost his--solvency--or--financial--ability--to--pay--the--compensation

herein--provided--to--be--paid--which--might--reasonably--be expected--to--be--chargeable--to--the--employer--during--the--fiscal year--to--be--covered--by--the--permission--or--that--the--employer--is an--association,--corporation,--or--organization--of--individual employers--seeking--permission--to--operate--under--compensation plan--No. 1,--the--department--must--require--the--employer,--before granting--to--him--permission--or--before--continuing--or--engaging in--such--employment--subject--to--the--provisions--of--compensation plan--No. 1,--to--give--security--in--addition--to--the--security described--in--subsection--(1)--for--the--payment--of--compensation, which--security--must--be--in--such--an--amount--as--the--department finds--is--reasonable--and--necessary--to--meet--all--liabilities--of the--employer--which--may--reasonably--and--ordinarily--be--expected to--accrue--during--the--fiscal--year; (a) The department shall require an employer to give security in addition to the security described in subsection (1) if:

(i) the department determines that the employer is insolvent or lacks the financial ability to pay the compensation that is required under this chapter and that is chargeable to the employer during the fiscal year to be covered by the permission provided for in 39-71-2103; or

(ii) the employer is an association, corporation, or organization of individual employers seeking permission to operate under compensation plan No. 1.

(b) The additional security required in subsection



1 (2)(a) must be an amount that the department finds
 2 reasonable and necessary to meet all liabilities that the
 3 employer may accrue under this chapter during the fiscal
 4 year.

5 (3) (a) The security provided for in subsection (2)
 6 must be deposited with the department and may be ~~a--certain~~
 7 either an estimated percent of the employer's last preceding
 8 annual payroll or a certain percent of the established
 9 amount of his annual payroll for the fiscal year;--or--the.
 10 The security may be-in-the-form consist of:

11 (i) a bond or undertaking executed to the department in
 12 the amount to be fixed by it with two or more sufficient
 13 sureties, which undertaking must be conditioned that the
 14 employer will ~~well-and-truly~~ pay or cause to be paid to his
 15 employees all sums and amounts for which the employer shall
 16 become becomes liable under the terms of this chapter to-his
 17 employees during the fiscal year; or ~~such--security--may~~
 18 consist-of

19 (ii) any state, county, municipal, or school district
 20 bonds or the bonds or evidence of indebtedness of any
 21 individuals or corporations which that the department deems
 22 considers solvent;--and-every-such.

23 (b) Every deposit and the character and amount of such
 24 the securities shall must at all times be subject to
 25 approval, revision, or change by the department as in-its

1 judgment it may be-required;--and-upon require.

2 (c) Upon proof of the final payment of the liability
 3 for which such the securities are given, such the securities
 4 or any remaining--part--thereof--shall remainder of the
 5 securities must be returned to the depositor.

6 (4) The department is liable for the value and
 7 safekeeping of all such deposits or securities and shall, at
 8 any time, upon demand of a bondsman or the depositor,
 9 account for the same deposits or securities and the earnings
 10 thereof of the deposits or securities."

11 NEW SECTION. Section 2. Saving clause. [This act] does
 12 not affect rights and duties that matured, penalties that
 13 were incurred, or proceedings that were begun before [the
 14 effective date of this act].

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

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

1 SENATE BILL NO. 14
2 INTRODUCED BY WILLIAMS
3 BY REQUEST OF THE JOINT SELECT COMMITTEE ON
4 WORKERS' COMPENSATION
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A SELF-INSURED
7 EMPLOYER UNDER WORKERS' COMPENSATION PLAN NO. 1 THE OPTION
8 OF PROVIDING A CERTIFICATE OF DEPOSIT AS SECURITY; AMENDING
9 SECTION 39-71-2106, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE."
11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 **Section 1.** Section 39-71-2106, MCA, is amended to read:
14 ***39-71-2106. Requiring security of employer.** (1) The
15 department may require any employer who elects to be bound
16 by compensation plan No. 1 to provide a security deposit IN
17 ACCORDANCE WITH RULES ADOPTED BY THE DEPARTMENT. Such The
18 security deposit may be a surety bond, government bond,
19 certificate of deposit, or letter of credit approved by the
20 department and must be the greater of:
21 (a) \$250,000; or
22 (b) an average of the workers' compensation liabilities
23 incurred by the employer in Montana for the past 3 calendar
24 years.
25 (2) ~~If the department finds that an employer has lost~~

1 ~~his solvency or financial ability to pay the compensation~~
2 ~~herein provided to be paid which might reasonably be~~
3 ~~expected to be chargeable to the employer during the fiscal~~
4 ~~year to be covered by the permission or that the employer is~~
5 ~~an association, corporation, or organization of individual~~
6 ~~employers seeking permission to operate under compensation~~
7 ~~plan No. 1, the department must require the employer, before~~
8 ~~granting to him permission or before continuing or engaging~~
9 ~~in such employment subject to the provisions of compensation~~
10 ~~plan No. 1, to give security in addition to the security~~
11 ~~described in subsection (1) for the payment of compensation,~~
12 ~~which security must be in such an amount as the department~~
13 ~~finds is reasonable and necessary to meet all liabilities of~~
14 ~~the employer which may reasonably and ordinarily be expected~~
15 ~~to accrue during the fiscal year. (a) The department shall~~
16 ~~require an employer to give security in addition to the~~
17 ~~security described in subsection (1) if:~~
18 ~~(i) the department determines that the employer is~~
19 ~~insolvent or lacks the financial ability to pay the~~
20 ~~compensation that is required under this chapter and that is~~
21 ~~chargeable to the employer during the fiscal year to be~~
22 ~~covered by the permission provided for in 39-71-2103; or~~
23 ~~(ii) the employer is an association, corporation, or~~
24 ~~organization of individual employers seeking permission to~~
25 ~~operate under compensation plan No. 1.~~

SECOND READING

1 (b) The additional security required in subsection
 2 (2)(a) must be an amount that the department finds
 3 reasonable and necessary to meet all liabilities that the
 4 employer may accrue under this chapter during the fiscal
 5 year.

6 (3) (a) The security provided for in subsection (2)
 7 must be deposited with the department and may be a-certain
 8 either an estimated percent of the employer's last preceding
 9 annual payroll or a certain percent of the established
 10 amount of his annual payroll for the fiscal year; ~~or the~~
 11 The security may ~~be-in-the-form~~ consist of:

12 (i) a bond or undertaking executed to the department in
 13 the amount to be fixed by it with two or more sufficient
 14 sureties, which undertaking must be conditioned that the
 15 employer will ~~well-and-truly~~ pay or cause to be paid to his
 16 employees all sums and amounts for which the employer ~~shall~~
 17 become becomes liable under the terms of this chapter ~~to his~~
 18 employees during the fiscal year; or ~~such-security-may~~
 19 consist-of

20 (ii) any state, county, municipal, or school district
 21 bonds or the bonds or evidence of indebtedness of any
 22 individuals or corporations ~~which that~~ the department deems
 23 considers solvent; ~~and every such.~~

24 (b) Every deposit and the character and amount of such
 25 the securities shall must at all times be subject to

1 approval, revision, or change by the department as ~~in its~~
 2 judgment it may be required; ~~and upon~~ require.

3 (c) Upon proof of the final payment of the liability
 4 for which such the securities are given, such the securities
 5 or any ~~remaining--part--thereof--shall~~ remainder of the
 6 securities must be returned to the depositor.

7 (4) The department is liable for the value and
 8 safekeeping of all such deposits or securities and shall, at
 9 any time, upon demand of a bondsman or the depositor,
 10 account for the ~~same~~ deposits or securities and the earnings
 11 thereof of the deposits or securities."

12 NEW SECTION. Section 2. Saving clause. [This act] does
 13 not affect rights and duties that matured, penalties that
 14 were incurred, or proceedings that were begun before [the
 15 effective date of this act].

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

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 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A SELF-INSURED
 7 EMPLOYER UNDER WORKERS' COMPENSATION PLAN NO. 1 THE OPTION
 8 OF PROVIDING A CERTIFICATE OF DEPOSIT AS SECURITY; AMENDING
 9 SECTION 39-71-2106, MCA; AND PROVIDING AN IMMEDIATE
 10 EFFECTIVE DATE."
 11

12 STATEMENT OF INTENT
 13 A STATEMENT OF INTENT HAS BEEN PREPARED FOR THIS BILL
 14 BECAUSE IT AMENDS 39-71-2106 TO EXPRESSLY AUTHORIZE THE
 15 DEPARTMENT OF LABOR AND INDUSTRY TO ADOPT RULES GOVERNING
 16 SECURITY DEPOSITS REQUIRED FROM EMPLOYERS WHO ELECT TO BE
 17 SELF-INSURED UNDER WORKERS' COMPENSATION PLAN NO. 1.

18 IT IS THE INTENT OF THE LEGISLATURE THAT, IN ADOPTING
 19 RULES, THE DEPARTMENT ALLOW SELF-INSURED EMPLOYERS TO
 20 PROVIDE A SECURITY DEPOSIT AS PROVIDED IN 39-71-2106 THAT
 21 MUST BE:

- 22 (1) AUTOMATICALLY RENEWABLE;
 23 (2) ACCOMPANIED BY A PROPERLY EXECUTED SECURITY
 24 INSTRUMENT THAT MUST BE FILED OF RECORD TO PROTECT AGAINST
 25 EMPLOYER BANKRUPTCY AND OTHER INSOLVENCY; AND

1 (3) FILED WITH ANY OTHER INFORMATION OR DOCUMENTATION
 2 NECESSARY TO PROTECT THE DEPARTMENT.
 3

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

5 **Section 1.** Section 39-71-2106, MCA, is amended to read:
 6 "39-71-2106. Requiring security of employer. (1) The
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 8 by compensation plan No. 1 to provide a security deposit IN
 9 ACCORDANCE WITH RULES ADOPTED BY THE DEPARTMENT. Such The
 10 security deposit may be a surety bond, government bond,
 11 certificate of deposit, or letter of credit approved by the
 12 department and must be the greater of:

- 13 (a) \$250,000; or
 14 (b) an average of the workers' compensation liabilities
 15 incurred by the employer in Montana for the past 3 calendar
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 18 ~~his solvency or financial ability to pay the compensation~~
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 23 ~~employers seeking permission to operate under compensation~~
 24 ~~plan No. 1, the department must require the employer, before~~
 25 ~~granting to him permission or before continuing or engaging~~



~~in such employment subject to the provisions of compensation plan No. 17 to give security in addition to the security described in subsection (1) for the payment of compensation, which security must be in such an amount as the department finds is reasonable and necessary to meet all liabilities of the employer which may reasonably and ordinarily be expected to accrue during the fiscal year. (a) The department shall require an employer to give security in addition to the security described in subsection (1) if:~~

~~(i) the department determines that the employer is insolvent or lacks the financial ability to pay the compensation that is required under this chapter and that is chargeable to the employer during the fiscal year to be covered by the permission provided for in 39-71-2103; or~~

~~(ii) the employer is an association, corporation, or organization of individual employers seeking permission to operate under compensation plan No. 1.~~

~~(b) The additional security required in subsection (2)(a) must be an amount that the department finds reasonable and necessary to meet all liabilities that the employer may accrue under this chapter during the fiscal year.~~

~~(3) (a) The security provided for in subsection (2) must be deposited with the department and may be a certain either an estimated percent of the employer's last preceding~~

annual payroll or a certain percent of the established amount of his annual payroll for the fiscal year, ~~or the.~~
The security may be in the form consist of:

(i) a bond or undertaking executed to the department in the amount to be fixed by it with two or more sufficient sureties, which undertaking must be conditioned that the employer will ~~well and truly~~ pay or cause to be paid to his employees all sums and amounts for which the employer ~~shall become becomes~~ liable under the terms of this chapter ~~to his employees~~ during the fiscal year; ~~or such security may consist of~~

(ii) any state, county, municipal, or school district bonds or the bonds or evidence of indebtedness of any individuals or corporations ~~which that~~ the department ~~deems considers solvent, and every such.~~

(b) Every deposit and the character and amount of ~~such the securities shall must~~ at all times be subject to approval, revision, or change by the department as ~~in its judgment it may be required, and upon require.~~

(c) Upon proof of the final payment of the liability for which ~~such the securities~~ are given, ~~such the securities or any remaining part thereof shall remainder of the securities must~~ be returned to the depositor.

(4) The department is liable for the value and safekeeping of all ~~such deposits or securities and shall, at~~

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REFERENCE BILL



1 ~~in such employment subject to the provisions of compensation~~
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