

VOLUME NO. 36**Opinion No. 60**

PUBLIC EMPLOYEES — Long-Term Disability Insurance. Sections 59-1502, 59-1505, and 11-1024, R.C.M. 1947.

HELD: 1. The state of Montana is not required to provide, as an option to its officers and employees, a policy or benefits including long-term disability insurance.

2. Only departments, bureaus, boards, commissions, and agencies of the state which by law may not or which vote not to approve the department of administration's insurance plan may enter into group contracts providing for long-term disability coverage independent of the contract entered into by the department of administration.

March 11, 1976

The Honorable Glen L. Drake
Montana State Senate
Power Block
Helena, MT 59601

Dear Senator Drake:

You have requested my opinion on the following questions:

1. Must the state provide, as an option to its officers and employees, a policy or benefits that include long-term disability coverage?

2. If the state, acting through the department of administration, does not provide the option for long-term disability coverage within the contract or contracts negotiated, may each individual department, bureau, board, commission, or agency of the state enter into a group contract providing long-term disability coverage for its officers and employees?

Question No. 1

Section 59-1502 provides:

The department of administration shall negotiate and contract for all contracts of group insurance and health service corporation plans issued to all officers and employees of all departments of the executive and legislative branches of the government of the state of Montana.

Section 59-1505 provides:

Two-thirds (2/3) of the members of any existing component employee group, which is part of the combined group on whose behalf the department has contracted for group insurance, must approve the policy in order for it to be effective as to that component group. When the policy is approved, the employer contribution provided for in section 11-1024 shall then be paid to the insurer issuing the approved policy. The component employee group shall retain the power to negotiate and contract for group insurance and health service corporation plans if such component group does not approve the policy negotiated by the department.

Sections 59-1502 and 59-1505 do not require the department of administration to negotiate and contract for any particular type of insurance. Therefore, it is not necessary for the department to obtain long-term disability insurance for component employee groups of the executive and legislative branches of state government which vote to accept the policy negotiated by the department.

However, for those employees of the judicial branches and those departments of the executive and legislative branches which do not vote to accept the department of administration's group insurance and health service corporation plan, section 11-1024 provides:

... All departments, bureaus, boards, commissions and agencies of the state of Montana ... shall upon approval of two-thirds (2/3) vote of the officers and employees of each such department, bureau, board, commission, [or] agency ... enter into group hospitalization, medical, health including long-term disability, accident and/or group life insurance contracts or plans for the benefit of their officers, employees and their dependents....

Unlike Chapter 15 of Title 59, this statute sets out certain types of insurance which may be obtained. One of the options includes "health including long-term disability" insurance. Under this option, the department, bureau, board,

commission, or agency may obtain long-term disability insurance for its employees. The insurance plan so obtained may be identical to one obtained by a collective bargaining unit or other group of which the employees are members. However, it must be the department, board, commission, or agency which actually contracts for the insurance and the state's contribution rate can be no more than the amount authorized by section 11-1024.

THEREFORE, IT IS MY OPINION:

1. The state of Montana is not required to provide, as an option to its officers and employees, a policy or benefits including long-term disability insurance.
2. Only departments, bureaus, boards, commissions, and agencies of the state which by law may not or which vote not to approve the department of administration's insurance plan may enter into group contracts providing for long-term disability coverage independent of the contract entered into by the department of administration.

Very truly yours,

ROBERT L. WOODAHL
Attorney General