

MINUTES OF THE MEETING  
LABOR AND EMPLOYMENT RELATIONS COMMITTEE  
MONTANA STATE SENATE

March 10, 1987

The seventeenth meeting of the Labor and Employment Relations Committee was called to order by Chairman Lynch on March 10, 1987, at 1:00 p.m. in Room 413/415 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 345: Rep. Lloyd McCormick, House District 38, sponsor of the bill, stated this bill will make self-insurers deposit a bond from \$25,000 up to \$200,000, according to the determination by the Division.

PROPONENTS: Mr. Hiram Shaw, representing the Division of Workers' Compensation, Department of Labor and Industry, gave testimony in support of this bill. His testimony is attached as Exhibit 1.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 345: Senator Thayer asked Mr. Bob Robinson, representing the Division of Workers' Compensation, why this bill is needed when it is included in SB 315. Mr. Robinson explained the legislation in SB 315 refers to self-insurers. In HB 345, it refers to Plan 2.

There being no further questions of the committee, Rep. McCormick closed.

DISPOSITION OF HOUSE BILL NO. 345: Senator Manning made a motion that HB 345 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

CONSIDERATION OF SENATE BILL NO. 388: Senator Paul Boylan, Senate District 39, sponsor of the bill, stated this bill puts the State Workers' Compensation Insurance plan up for sale. He said the biggest burden of small businesses in Montana today is Workers' Compensation. Senator Boylan

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said the safety inspections of the Workers' Compensation Division have not been up to par, and many injured workers have complained that it takes the Division too long to respond when they are injured. He said the Workers' Compensation Fund is in bad shape due to lump sum payments. Senator Boylan stated since he has been a senator, he has seen the Workers' Compensation Division go through scandal, be mismanaged, go heavily in debt, the costs are high, and the staff has not been responsible. He stated there is now a new administrator at the Workers' Compensation Division, Mr. Bob Robinson, and Senator Boylan said he has the highest respect for Mr. Robinson. Senator Boylan reserved the right to close.

PROPOSERS: Mr. Phil Strobe, representing the Montana Innkeepers Association and the Montana Tavern Association, stated they support the concept of SB 388. Mr. Strobe distributed an article explaining why selling the fund is a sound idea. See Exhibit 2. It would give employers the choice of choosing to be solvent and a self-insurer, or if they are not solvent, they would have to buy coverage from a private sector. Currently, in Montana there are 8,000 private employers; thus, 3/4 of the businesses buy their coverage from the State Plan. This piece of legislation would allow Montana to deal with the unfunded liability of the Workers' Compensation Fund in some other way than by borrowing money and surcharging new employers. Mr. Strobe urged the committee to consider this bill realistically.

Mr. Stuart Doggett, representing the Montana Chamber of Commerce, rose in support of this bill. Mr. Doggett stated they feel this is a good piece of legislation.

Mr. Dennis Burr, representing the Montana Taxpayers Association, rose in support of the bill. He said it is a reasonable alternative to deal with Plan 3. Mr. Burr recommended the amendment that would allow the Governor or the Audit Committee to reject all bids.

Ms. Julie Hacker, representing Missoula Free Women's Association, rose in support of this bill. They feel the Workers' Compensation Division has been poorly managed and that by putting it into the private sector, it will be run as a business. Ms. Hacker urged support of the committee.

OPPOSERS: Mr. Jim Murry, representing Montana AFL-CIO, stated they are opposed to this bill. Mr. Murry stated they strongly believe SB 388 misguidedly proposes to sell the State Workers' Compensation Insurance Plan to the highest

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responsible bidder. He said the State Workers' Compensation Insurance Plan serves as a buffer for services to the worker and rates to the employer. History has proven that insurance companies tend to come and go. The State Plan provides essential stability because it is a permanently established plan. The AFL-CIO also believes the State Plan provides the competitiveness that helps promote the best premium rate. Mr. Murry stated they do not feel SB 388 serves the best interest for the Montana workers and employers. He urged the committee to oppose this bill.

Mr. Bob Robinson, representing the Workers' Compensation Division, rose in opposition to the bill. He said State Funds provide a balance and protection for the employer - it provides a predictable insurer. This bill does not provide insurers in event agencies left the state. If the State Fund is sold, the buyer would receive an unfunded liability of approximately \$100 million, so the buyer would not receive assets.

Mr. Keith Olson, representing the Montana Logging Association, stated they are concerned about this law because it will mandate Workers' Compensation coverage and yet there will be nothing in the statutes which will state the coverage will either be available or affordable. There is nothing in the bill that states the private carrier will have to provide coverage, and if they do provide the coverage, what the rate would be. Mr. Olson believes the intent of this bill was good if there were truly a free enterprise system that would readily right all of Montana's employers.

QUESTIONS (OR DISCUSSIONS) ON SENATE BILL NO. 388: Senator Lynch asked Mr. Robinson what are the rates of the tavern owners and the innkeepers. Mr. Robinson said he did not have the statistics with him, but could get the information for the committee.

Senator Lynch asked Senator Boylan why there is not a clause in the bill for legislative approval. Senator Boylan stated it was never discussed, but could be amended into the bill.

Senator Blaylock asked Mr. Strobe if SB 388 was adopted, would you be willing to do away with the exclusive remedy rule. Mr. Strobe replied he believes the exclusive remedy rule would remain.

Senator Haffey asked Mr. Strobe if this bill will allow the possibility that Workers' Compensation coverage would

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be mandatory, however, it might not be available to employers. If that was the case, wouldn't the exclusive remedy rule be gone. Mr. Strobe replied there are approximately 8,000 employers covered by Plan 2 and 26,000 employers covered by Plan 3. If this bill was adopted, it would do away with Plan 3, and then in theory, there would be 34,000 employers under Plan 2. The assigned risk proposal would be similar to the assigned risk proposal from other states, which is any company would have to carry its' fair share of those assigned risks. Senator Haffey asked Mr. Strobe to assume they are no longer writing the insurance. Mr. Strobe stated considering the amount of money involved, the chance of all agencies withdrawing is extremely small.

Senator Blaylock explained to Mr. Strobe that this would in effect shut down the timber industry. Mr. Strobe stated he is aware of the problems in the logging industry.

Senator Manning asked Senator Boylan if there is a perspective buyer for the insurance plan. Senator Boylan replied he did not know.

Senator Gage asked Mr. Robinson how the rates of the 38 states without a state plan compare with Montana's rates. Mr. Robinson stated he does not have the statistics to answer that question, but he now has the answer to Senator Lynch's previous question of the restaurant and bar rates. Mr. Robinson explained the restaurant and bar rates are \$3.86 per \$100 in the State Fund, and the NCCA rate is \$7.66 per \$100.

Senator Gage asked Mr. Robinson if any of the 38 states who did not have a State Plan now have a State Plan. Mr. Robinson replied no, he is not aware of any, but he does know of 3 states who are moving to a State Fund.

Senator Boylan closed by stating he is here to protect the injured worker and if he felt this bill did not protect them, he would not support it. Senator Boylan feels this bill would clean up most of the problems related to Workers' Compensation because privately owned agencies would not put up with hazards. Senator Boylan feels the fiscal note prepared for this bill is ambiguous. Senator Boylan does not feel SB 388 will hurt SB 315, instead, it would be a good back up for SB 315.

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CONSIDERATION OF HOUSE BILL NO. 249: Rep. Kitselman, House District 95, sponsor of the bill, stated HB 249 is currently under the calculation method of premiums for Workers' Compensation. This is calculated in the base rate of all administrative charges. This bill sets the administrative charges as a separate fee.

PROPOSERS: Mr. Bob Robinson, representing the Department of Labor, Workers' Compensation Division, stated this bill was requested by the Division. He explained that he and Mr. Jim Murphy began checking the State Fund to see if there was a minimum cost, and the result was there are over 4,000 policies in effect, but there is no action taken on them on an annual basis. They also checked the cost of the policy services unit, and the result is \$60 a year minimum cost if they divide all the fixed costs in that unit and the variable cost is approximately \$62 per year for the policy.

OPPOSERS: There were no opposers present.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL 249: Senator Keating stated he has carried Workers' Compensation from the State Fund during a period of time when he employed employees at his business; however, he no longer has any employees. As an officer of his corporation, Senator Keating waived the Workers' Compensation coverage so there is no annual charge. Each year Senator Keating receives a notice and he files for 0 coverage and does not pay any fees. The only reason he has kept this coverage is because if he ever employs another employee, he can be reinstated with Workers' Compensation for no charge. If he drops the coverage now, it would cost \$25 to be reinstated. Senator Keating stated if he is going to be charged \$60 to sit inactive, he will quit. He asked Mr. Robinson why there is no provision in this bill for announcing to the 4,000 employers that they will be charged \$60. Mr. Robinson stated that with the billing of the first quarter of fiscal 1988, they could send out a mailing to inform these employers of the charge and that they would have the option of retaining the coverage or dropping it.

Senator Lynch asked Mr. Robinson what would happen if they do not pay it, would there be any charge to get the coverage again when they hire employees. Mr. Robinson replied that once an employer asks for insurance and gives the date employment begins, the employer pays an initial deposit. The initial deposit normally approximates half a years annual premium, and it is provided in certificate of deposit or in letters of credit or surety bonds or cash.

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Senator Thayer asked Mr. Robinson if the \$25 minimum deposit is returned if the policy is dropped. Mr. Jim Murphy, Bureau Chief of the State Fund, replied no. Senator Thayer asked Mr. Murphy if the employer wanted to re-enroll at a later date, would he once again pay the deposit. Mr. Murphy stated the \$25 is retained for the purpose of administrative costs. He said it is safer if a person goes into business to obtain a policy because if they want to hire immediately and there is no current policy, there is the possibility of having an employee without coverage. Senator Galt asked Mr. Robinson if his certificate of deposit made out to Workers' Compensation would be returned to him if he went out of business. Mr. Robinson replied yes, you would receive the net back.

Rep. Kitselman closed by stating abuses have been happening, for example, when a neighbor is injured on that person's property, they say he is an employee so he can draw Workers' Compensation benefits. This would prevent this from happening because either the person will be enrolled in the program or he will not be.

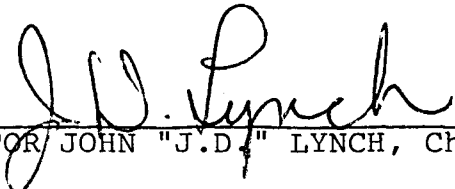
Senator Lynch asked Rep. Kitselman if there is a reason why the bill was not introduced at the request of the Workers' Compensation Division.

Rep. Kitselman said they had discussed it by telephone. The effective date is July 1, 1987. He stated the fiscal note is not attached to the bill, however, it is available.

DISPOSITION OF HOUSE BILL NO. 249: Senator Manning made a motion that HB 249 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

DISPOSITION OF SENATE BILL NO. 388: Senator Galt made a motion the amendments be adopted. The motion carried unanimously. Senator Galt made a motion that SB 388 DO PASS. SB 388 was held in committee due to a 4-4 tie vote. See attached roll call vote.

ADJOURNMENT: There being no further business to come before the committee, the hearing adjourned at 2:20 p.m.

  
SENATOR JOHN "J.D." LYNCH, Chairman

ROLL CALL

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/10/87

NAME	PRESENT	ABSENT	EXCUSED
John "J.D." Lynch Chairman	X		
Gene Thayer Vice Chairman	X		
Richard Manning	X		
Thomas Keating	X		
Chet Blaylock	X		
Delwyn Gage	X		
Jack Haffey	X		
Jack Galt	X		

Each day attach to minutes.



ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date March 10, 1987 Bill No. SB 282 Time 2:15

NAME	YES	NO
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman		X
Richard Manning		X
Thomas Keating	X	
Chet Blaylock		X
Delwyn Gage	X	
Jack Haffey		X
Jack Galt	X	

Julie Rademacher  
Secretary

John "J.D." Lynch  
Chairman

Motion: Do Pass  
Referred to the subcommittee  
4/15-76

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date March 12, 1987 Bill No. SB 245 Time 1:27 pm

NAME	YES	NO
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman	X	
Richard Manning	X	
Thomas Keating	X	
Chet Blaylock		
Delwyn Gage	X	
Jack Haffey	<del>X</del> X	
Jack Galt	X	

Julie Rademacher  
Secretary

John "J.D." Lynch  
Chairman

Motion: Be Carried In  
(Drops)

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date March 10, 1987 Bill No. HB 249 Time 2:00 p.m.

NAME	YES	NO
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman	X	
Richard Manning	X	
Thomas Keating	X	
Chet Blaylock	X	
Delwyn Gage	X	
Jack Haffey	X	
Jack Galt		

Julie Rademacher  
Secretary

John "J.D." Lynch  
Chairman

Motion: To Reconsider  
(Stayer)

ON MOTION, MARCH 14, 1987, SENATE BILL 388 TAKEN AS AMENDED FROM  
THE SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

Respectfully report as follows: That.....SENATE BILL.....No. 388  
First reading copy (white)  
be amended as follows:

1. Title, line 10.  
Following: "SECTIONS"

Insert: "7-32-203, 33-17-502, 33-18-212,"

2. Title, line 12.  
Following: "39-71-515,"  
Insert: "39-71-704,"

3. Page 4, line 8.  
Following: line 7

Insert: "Section 3. Section 7-32-203, MCA, is amended  
to read:

"7-32-203. Provision of workers' compensation  
coverage. (1) Each law enforcement agency that utilizes  
reserve officers shall provide full workers'  
compensation coverage for the officers while they are  
providing actual service for a law enforcement agency.

~~Coverage---shall---be---provided---through---the---state  
compensation---insurance---fund,---and---the---law---enforcement  
agencies---shall---pay---to---the---state---fund---an---appropriate~~

XXXXXX

XXXXXXXXXX

CONTINUED

.....  
Chairman.

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~~premium-as-established-by-the-state-fund-to-cover-the  
insurance-risk-of-providing-coverage-to-the-officers.~~

(2) Each law enforcement agency that utilizes auxiliary officers shall provide full workers' compensation coverage for the officers while they are providing actual service for a law enforcement agency."

Section 4. Section 33-17-502, MCA, is amended to read:

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) Any person not licensed as an insurance consultant in this state who identifies or holds himself out to be an insurance consultant without having been licensed as an insurance consultant under this part or any person who uses any other designation or title which is likely to mislead the public and holds himself out in any manner as having particular insurance qualifications other than those for which he may be otherwise licensed or otherwise qualified is guilty of a misdemeanor and upon conviction shall be fined \$1,500.

(2) Any person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives any fee for examining, appraising, reviewing, or evaluating any insurance

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policy, annuity or pension contract, plan, or program or who shall make recommendations or give advice with regard to any of the above without first having been licensed by the commissioner as an insurance consultant is guilty of a misdemeanor and upon conviction shall be fined \$1,500.

(3) Nothing in this part applies to:

(a) licensed attorneys at law in this state acting in their professional capacity; or

(b) an actuary or a certified public accountant who provides information, recommendations, advice, or services in his professional capacity if neither he nor his employer receives any compensation directly or indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services; or.

~~(c) a duly-licensed-casualty-insurance-agent-who accepts-a-fee-from-an-insured-for-placement-through-the state--compensation--insurance--fund--as--provided--in 33-18-212."~~

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Section 5. Section 33-18-212, MCA, is amended to read:

"33-18-212. Illegal dealing in premiums -- improper charges for insurance. (1) No person shall willfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this code.

(2) No person shall willfully collect as premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance and, as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the commissioner; or in cases where classifications, premiums, or rates are not required by this code to be so filed and approved, such premiums and charges shall not be in excess of or less than those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus line agents licensed under chapter 2, part 3, of the amount of applicable state and federal taxes in addition to the

CONTINUED

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premium required by the insurer. It shall not be deemed to prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy. ~~The provision of this subsection does not prohibit the collection from an insured of a placement fee, not to exceed 7 1/2% of the annual premium, for placement through the state compensation insurance fund by a duly licensed casualty insurance agent. This placement fee is not a premium as defined in 33-15-102.~~

(3) Each violation of this section shall be punishable under 33-1-104."

Renumber: subsequent sections

4. Page 16, line 4.

Following: "7"

Strike: "other than a state agency"

5. Page 21, line 11.

Following: line 10

Insert: "Section 19. Section 39-71-704, MCA, is amended to read:

"39-71-704. Payment of medical, hospital, and related services. (1) In addition to the compensation provided by this chapter and as an additional benefit separate and apart from compensation, the following shall be furnished:

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(a) After the happening of the injury, the insurer shall furnish, without limitation as to length of time or dollar amount, reasonable services by a physician or surgeon, reasonable hospital services and medicines when needed, and such other treatment as may be approved by the division for the injuries sustained.

(b) The insurer shall replace or repair prescription eyeglasses, prescription contact lenses, prescription hearing aids, and dentures that are damaged or lost as a result of an injury, as defined in 39-71-119, arising out of and in the course of employment.

(2) A relative value fee schedule for medical, chiropractic, and paramedical services provided for in this chapter, excluding hospital services, shall be established annually by the workers' compensation division and become effective in January of each year. The maximum fee schedule must be adopted as a relative value fee schedule of medical, chiropractic, and paramedical services, with unit values to indicate the relative relationship within each grouping of specialties. Medical fees must be based on the median fees as billed to the state-compensation-insurance-fund compensation plan No. 2 insurers during the year

CONTINUED

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preceding the adoption of the schedule. The division shall adopt rules establishing relative unit values, groups of specialties, the procedures insurers must use to pay for services under the schedule, and the method of determining the median of billed medical fees. These rules shall be modeled on the 1974 revision of the 1969 California Relative Value Studies."

Renumber: subsequent sections

6. Page 30, line 6.

Strike: "27"

Insert: "31"

AMENDMENTS PASSED  
HELD IN COMMITTEE BY A 4 TO 4 TIE VOTE

Senator Lynch, Chairman

OUTLINE OF TESTIMONY BY  
HIRAM SHAW, CHIEF, INSURANCE COMPLIANCE BUREAU  
DIVISION OF WORKERS' COMPENSATION  
DEPARTMENT OF LABOR & INDUSTRY

In Support of House Bill 345  
Regarding Deposits by Plan #2 Private Insurance Carriers

The Department is in support of House Bill 345. The fact sheet distributed by the secretary shows insolvencies by private insurance carriers is a new, but serious problem the Division has experienced since 1984.

Currently, the Division may require between \$5,000 and \$100,000 in security deposits. The amendment allows a more realistic minimum deposit because in today's market, even an insurer with limited liabilities would most likely have at least \$25,000 in liabilities.

The purpose of a surety bond is to cover an injured workers' compensation and benefits if an insurer fails to make such payments. If an insurer goes into liquidation, it may take 6 weeks or more for a court to declare the insurer insolvent and allow the Western Guaranty Fund to take over the insurer's liabilities. Therefore, it was estimated a higher maximum was needed to provide adequate interim on relief until the Guaranty Fund were able to take over.

Example: When Glacier General Assurance stopped paying compensation in August, 1985, it took six weeks before the Court actually declared Glacier insolvent and the Guaranty Fund took over payments. The Division had \$100,000 which was based on four weeks.

SENATE LABOR & EMPLOYMENT  
DATE 3/10/87  
BILL NO. HB 345

INSURANCE COMPLIANCE BUREAU  
Division of Workers' Compensation

PROBLEMS WITH PRIVATE INSURANCE CARRIERS AND SELF-INSURERS

I. INSOLVENCIES AND BANKRUPTCIES

Fiscal Year 1985

Great Western Sugar Company (Plan 1)	Bankruptcy
Ideal Mutual Insurance Company	Insolvent
Excalibur Insurance Company	Insolvent

Fiscal Year 1986

Glacier General Assurance Company	Insolvent
Carriers Insurance Company	Insolvent
Great Global Assurance Company	Insolvent
Intermountain Insurance Company	Insolvent
Transit Casualty Company	Insolvent
Midland Insurance Company	Insolvent

II. FINANCIAL PROBLEMS

Wausau Underwriters Insurance	Possible Problems
Enterprize Insurance Company	Possible Insolvency
Mission Insurance Company	Possible Insolvency
Mission American Insurance Company (Formerly Transport Indemnity)	Possible Insolvency
Mission National Insurance Company	Possible Insolvency
Compass Insurance	Was problem, now appears satisfactory
Ideal Basic Industries/Ideal Cement (Plan 1)	Financial Problems-- Bonding obtained, voluntarily left self-insurance
Union Oil Company of California (Plan 1)	Possible Problems
Ryder-P.I.E. (Plan 1)	Possible Problems

January 28, 1987

SENATE LABOR & EMPLOYMENT  
EXHIBIT NO. 1  
DATE 3/10/87  
BILL NO. HB 345

LR 2-16-87 Mikh

# OPINIONS &

SENATE LABOR COMMITTEE  
EXHIBIT NO. 2  
DATE 3/16/87  
BILL NO. SB 388

## A better idea: SB 388 Sell workers' comp

The state Workers' Compensation Division is in trouble and the Legislature is struggling with plans to put the agency back on its feet.

Montana is one of only 18 states that have a state workers compensation plan.

Sen. Paul Boylan, D-Bozeman, thinks now is the time to reduce that 8 state figure to 17 and is having a bill drafted that would allow Montana to get out of the work comp business.

Work comp officials project that the state will collect \$64 million in premiums this fiscal year. They have a reserve estimated at about \$126.9 million and unfunded liabilities that are projected to reach \$200 million. Some sources tell us that unfunded liabilities potentially could reach \$200 million.

Boylan's bill is simple. It would allow the state to advertise for bids to sell its work comp business. The governor would have the authority to reject any and all bids.

Knowledgeable sources tell us it is realistic to assume that the state fund could sell for two times earnings, or about \$130 million. The insurance firm that buys the state fund would also have to assume the unfunded liability. Again, these sources tell us that should not pose a problem.

If we don't get out of the work comp business we will be faced with some horrible alternatives.

1. The state could continue to stay in the work comp business and appropriate \$126 million or more to cover the unfunded liabilities.

2. The state could liquidate the fund and devise a scheme to pay the unfunded liability either through a legislative appropriation or by applying a surcharge on all employers until the unfunded liability is covered.

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Boylan confirms what a number of labor representatives have told us: Injured workers who are covered by the state plan don't get the immediate attention afforded injured employees who are covered by self-insured plans (known as Plan 1 in state jargon) or those whose employees who are injured through a private carrier (Plan 2).

"Cases drag on and on and the suffering injured worker isn't getting paid," Boylan notes.

Delay invites litigation and that drags out the process. "This isn't fair to our injured workers," Boylan says.

"When there's an accident private claims are right there and the claim gets settled a lot faster," he adds.

"When I talk to business people they complain about three things in this order," says the Bozeman senator. "Work comp premiums, the high cost of liability insurance and property taxes. They tell me they wouldn't mind paying a little more in property taxes to help fund education if they got some relief from workers' comp and liability. I think selling the state fund will eventually give the business sector some relief."

Will rates go down immediately if the state fund is sold? Probably not. We still need a reform of work comp laws.

On the plus side is the indirect power that private insurers could use to force adjustment in rates to reflect safety standards in industry, eligibility for benefits and the amount of those benefits.

Boylan emphatically says it is not his intention to disenfranchise the work force of Montana. "All I want to do is make sure they are protected and paid for their injuries," he says.

The front-end costs associated with trying to get out of the work comp business are insignificant. And the cash-short general fund could be enriched by \$130 million or possibly even more.

Boylan's idea is worth doing.

# STANDING COMMITTEE REPORT

March 10,

19<sup>87</sup>

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration HOUSE BILL No. 345

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color

REVISE AMOUNT WORKERS' COMPENSATION PLAN 2 INSURER MUST DEPOSIT TO  
ASSURE PAYMENT

MCCORMICK (THAYER)

Respectfully report as follows: That HOUSE BILL No. 345

BE CONCURRED IN

~~XXXXXX~~  
DO PASS

~~XXXXXXXXXX~~  
DO NOT PASS

Sen. John "J.D." Lynch

Chairman.

# STANDING COMMITTEE REPORT

March 10, 1937

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration HOUSE BILL No. 249

third reading copy ( blue )  
color

WORKERS' COMP. DIV. CHARGE MINIMUM FEE ON PLAN 3 POLICY TO COVER  
ADMIN. COST

KITSELMAN (THAYER)

Respectfully report as follows: That HOUSE BILL No. 249

BE CONCURRED IN  
NO. 249

NO. 249

Sen. John "J.D." Lynch

Chairman.

BILL SUMMARY  
( SB 388 )

Prepared for the Senate Labor and Employment  
Relations Committee

By Tom Gomez, Staff Researcher  
Montana Legislative Council

SB 388 requires the sale of the state workers' compensation insurance plan, including the state fund.

As introduced, SB 388, contains the following main provisions:

- requires the governor to sell workers' compensation plan No. 3 and the fund within 180 days after the effective date of the act;
- provides that bid proposals contain an agreement to purchase the plan and fund in cash and that each bid be accompanied by security in the amount of 2% of the bid;
- requires the governor to submit bids to the legislative audit committee, which will review bids and submit comments to the governor on the qualifications of the bidders;
- allows responsible bidders to inspect the records of the fund and plan, including data banks and raw data of the division of workers' compensation;
- provides that the successful bidder will be entitled to the financial assets, future business, and books, records, and papers of the plan and fund; but not furniture, equipment, physical plant, or like items;
- requires the successful bidder to pay all claims that are awarded and unpaid on the date of the sale or that are pending on the date of sale;
- provides that proceeds of the sale must be deposited in the general fund;
- mandates that the department of labor and industry administer a plan for the equitable apportionment to insurers of insurance coverage for high-risk employers who are otherwise unable to procure coverage;
- eliminates all current provisions of law relating to state compensation plan No. 3; and
- revises penalties for uninsured employers by providing for payment of a penalty that is either double the premium amount the employer would have paid on the payroll, based on the average quotes from three workers' compensation insurers, or \$200, whichever is greater.

AMENDMENTS TO SB 388

1. Title, line 10.  
Following: "SECTIONS"  
Insert: "7-32-203, 33-17-502, 33-18-212,"

2. Title, line 12.  
Following: "39-71-515,"  
Insert: "39-71-704,"

3. Page 4, line 8.  
Following: line 7  
Insert: "Section 3. Section 7-32-203, MCA, is amended to read:

"7-32-203. Provision of workers' compensation coverage. (1) Each law enforcement agency that utilizes reserve officers shall provide full workers' compensation coverage for the officers while they are providing actual service for a law enforcement agency. ~~Coverage--shall---be---provided---through---the---state compensation-insurance--fund,--and--the-law--enforcement agencies--shall--pay-to--the-state--fund-an--appropriate premium,--as-established-by-the-state-fund,--to-cover-the insurance-risk-of-providing-coverage-to-the-officers.~~

(2) Each law enforcement agency that utilizes auxiliary officers shall provide full workers' compensation coverage for the officers while they are providing actual service for a law enforcement agency."

Section 4. Section 33-17-502, MCA, is amended to read:

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) Any person not

licensed as an insurance consultant in this state who identifies or holds himself out to be an insurance consultant without having been licensed as an insurance consultant under this part or any person who uses any other designation or title which is likely to mislead the public and holds himself out in any manner as having particular insurance qualifications other than those for which he may be otherwise licensed or otherwise qualified is guilty of a misdemeanor and upon conviction shall be fined \$1,500.

(2) Any person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives any fee for examining, appraising, reviewing, or evaluating any insurance policy, annuity or pension contract, plan, or program or who shall make recommendations or give advice with regard to any of the above without first having been licensed by the commissioner as an insurance consultant is guilty of a misdemeanor and upon conviction shall be fined \$1,500.

(3) Nothing in this part applies to:

(a) licensed attorneys at law in this state acting in their professional capacity; or

(b) an actuary or a certified public accountant who provides information, recommendations, advice, or services in his professional capacity if neither he nor his employer receives any compensation directly or

indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services; or.

~~(c)-a-duly-licensed--casualty-insurance-agent--who accepts-a-fee-from-an-insured-for-placement-through-the state--compensation--insurance--fund--as--provided---in 33-18-212."~~

Section 5. Section 33-18-212, MCA, is amended to read:

"33-18-212. Illegal dealing in premiums -- improper charges for insurance. (1) No person shall willfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this code.

(2) No person shall willfully collect as premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance and, as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the commissioner; or in cases where classifications, premiums, or rates are not required by this code to be so filed and approved, such premiums and charges shall not be in excess of or less than those specified in the policy and as fixed by the

insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus line agents licensed under chapter 2, part 3, of the amount of applicable state and federal taxes in addition to the premium required by the insurer. It shall not be deemed to prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy. ~~The provision of this subsection does not prohibit the collection from an insured of a placement fee, not to exceed 7 1/2% of the annual premium, for placement through the state compensation insurance fund by a duly licensed casualty insurance agent. This placement fee is not a premium as defined in 33-15-102.~~

(3) Each violation of this section shall be punishable under 33-1-104."

Renumber: subsequent sections

4. Page 16, line 4.  
Following: "7"  
Strike: "other than a state agency"

5. Page 21, line 11.  
Following: line 10  
Insert: "Section 19. Section 39-71-704, MCA, is amended to read:  
"39-71-704. Payment of medical, hospital, and related services. (1) In addition to the compensation provided by this chapter and as an additional benefit separate and apart from compensation, the following shall be furnished:

(a) After the happening of the injury, the insurer shall furnish, without limitation as to length of time or dollar amount, reasonable services by a physician or surgeon, reasonable hospital services and medicines when needed, and such other treatment as may be approved by the division for the injuries sustained.

(b) The insurer shall replace or repair prescription eyeglasses, prescription contact lenses, prescription hearing aids, and dentures that are damaged or lost as a result of an injury, as defined in 39-71-119, arising out of and in the course of employment.

(2) A relative value fee schedule for medical, chiropractic, and paramedical services provided for in this chapter, excluding hospital services, shall be established annually by the workers' compensation division and become effective in January of each year. The maximum fee schedule must be adopted as a relative value fee schedule of medical, chiropractic, and paramedical services, with unit values to indicate the relative relationship within each grouping of specialties. Medical fees must be based on the median fees as billed to the ~~state-compensation-insurance-fund~~ compensation plan No. 2 insurers during the year preceding the adoption of the schedule. The division shall adopt rules establishing relative unit values, groups of specialties, the procedures insurers must use

to pay for services under the schedule, and the method of determining the median of billed medical fees. These rules shall be modeled on the 1974 revision of the 1969 California Relative Value Studies.""

Renumber: subsequent sections

6. Page 30, line 6.

Strike: "27"

Insert: "31"