

SENATE BILL NO. 440

INTRODUCED BY B. WILLIAMS, BOYLAN, KOLSTAD,  
MANNING, RAPP-SVRCEK, HAFHEY, DRISCOLL, GAGE

IN THE SENATE

February 16, 1985	Introduced and referred to Committee on Labor and Employment Relations.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted.  Statement of Intent attached.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass.  Considered correctly engrossed.
February 27, 1985	Third reading, passed. Ayes, 50; Noes, 0.  Transmitted to House.

IN THE HOUSE

March 7, 1985	Introduced and referred to Committee on Business and Labor.
March 28, 1985	Committee recommend bill be concurrred in. Report adopted.
March 30, 1985	Second reading, concurrred in.
April 1, 1985	Third reading, concurrred in.  Returned to Senate.

IN THE SENATE

April 1, 1985

Received from House.

April 2, 1985

Sent to enrolling.

Reported correctly enrolled.

*Senate* BILL NO. 440

INTRODUCED BY *Richard E. Manning, S. Ross-Sorensen, Kelly Dussell, B. P.*  
*W. Williams, Douglas Kolstad*

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW EMPLOYERS TO OPERATE AS SELF-INSURED UNDER THE WORKERS' COMPENSATION ACT BY FORMING GROUPS TO BE CERTIFIED AS SELF-INSURED; AMENDING SECTIONS 39-71-117, 39-71-2103, AND 39-71-2106, MCA."

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

Section 1. Section 39-71-117, MCA, is amended to read:

"39-71-117. Employer defined. "Employer" means:

(1) the state and each county, city and county, city school district, irrigation district, all other districts established by law, and all public corporations and quasi-public corporations and public agencies therein and every person, every prime contractor, and every firm, voluntary association, and private corporation, including any public service corporation and including an independent contractor who has any person in service under any appointment or contract of hire, expressed or implied, oral or written, and the legal representative of any deceased employer or the receiver or trustee thereof; and

(2) any association, corporation, or organization that seeks permission and meets the requirements set by the division by rule for a group of individual employers to

operate as self-insured under plan No. 1 of this chapter."

Section 2. Section 39-71-2103, MCA, is amended to read:

"39-71-2103. Employer permitted to carry on business and settle directly with employee -- individual liability.

(1) If such employer making such election shall be found by the division to have the requisite financial ability to pay the compensation and benefits in this chapter provided for, then the division shall grant to the employer permission to carry on his business for the fiscal year within which such election is made and such proof filed, or the remaining portion of such fiscal year, and to make such payments directly to his employees as they may become entitled to receive the same.

(2) Each individual employer in an association, corporation, or organization of employers given permission by the division to operate as self-insured under plan No. 1 of this chapter is jointly and severally liable for all obligations incurred by the association, corporation, or organization under this chapter. An association, corporation, or organization of employers given permission to operate as self-insured must maintain excess liability coverage in amounts and under such conditions as provided by rules of the division."

Section 3. Section 39-71-2106, MCA, is amended to

1 read:

2 "39-71-2106. Requiring security of employer. (1) If  
3 the division finds that an employer does not have the  
4 financial responsibility for the payment of the compensation  
5 herein provided to be paid which might reasonably be  
6 expected to be chargeable to the employer during the fiscal  
7 year to be covered by the permission or that the employer is  
8 an association, corporation, or organization of individual  
9 employers seeking permission to operate under compensation  
10 plan No. 1, the division must require the employer, before  
11 granting to him permission or before continuing or engaging  
12 in such employment subject to the provisions of compensation  
13 plan No. 1, to give security for such payment, which  
14 security must be in such an amount as the division finds is  
15 reasonable and necessary to meet all liabilities of the  
16 employer which may reasonably and ordinarily be expected to  
17 accrue during the fiscal year.

18 (2) The security must be deposited with the division  
19 and may be a certain estimated percent of the employer's  
20 last preceding annual payroll or a certain percent of the  
21 established amount of his annual payroll for the fiscal  
22 year; or the security may be in the form of a bond or  
23 undertaking executed to the division in the amount to be  
24 fixed by it with two or more sufficient sureties, which  
25 undertaking must be conditioned that the employer will well

1 and truly pay or cause to be paid all sums and amounts for  
2 which the employer shall become liable under the terms of  
3 this chapter to his employees during the fiscal year; or  
4 such security may consist of any state, county, municipal,  
5 or school district bonds or the bonds or evidence of  
6 indebtedness of any individuals or corporations which the  
7 division deems solvent; and every such deposit and the  
8 character and amount of such securities shall at all times  
9 be subject to approval, revision, or change by the division  
10 as in its judgment may be required, and upon proof of the  
11 final payment of the liability for which such securities are  
12 given, such securities or any remaining part thereof shall  
13 be returned to the depositor.

14 (3) The division is liable for the value and  
15 safekeeping of all such deposits or securities and shall, at  
16 any time, upon demand of a bondsman or the depositor,  
17 account for the same and the earnings thereof."

18 NEW SECTION. Section 4. Extension of authority. Any  
19 existing authority of the division of workers' compensation  
20 to make rules on the subject of the provisions of this act  
21 is extended to the provisions of this act.

-End-

APPROVED BY COMMITTEE  
ON LABOR & EMPLOYMENT  
RELATIONS

STATEMENT OF INTENT

SENATE BILL 440

Senate Labor and Employment Relations Committee

A statement of intent is required for this bill because it requires the adoption of rules by the workers' compensation division of the department of labor and industry.

The legislature intends that the division adopt only those rules required by section 4 of this bill.

The rules adopted by the division to implement section 4 should require the submission of information regarding the following:

(1) the requirements for formation and certification of an association, corporation, or organization of employers to operate as a group self-insured employer, including provisions for the addition of new members and the withdrawal of existing members;

(2) requirements for proof of solvency of the group self-insurer and to maintain security to insure payment of obligations under the act;

(3) requirements for an indemnity agreement and power of attorney between the individual employers within the group, including the requirement that all members of the group remain jointly and severally liable;

(4) requirements for and confirmation of excess liability insurance;

(5) requirements for management of the association and annual reports to the division;

(6) requirements for auditing the group self-insurer to determine that it is meeting its obligations under the Workers' Compensation Act;

(7) provisions for the termination of group self-insurance by the group on request and for termination by the division upon determination that the group no longer meets the requirements for certification as self-insured and for determining responsibility for pending claims.

The legislature intends that all group self-insured employers must comply with the provisions of the act and rules enacted thereunder. In developing rules, the legislature intends that employees of the group self-insurer have as much assurance as reasonably possible of the benefits to which they are entitled under the act.



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every person, every prime contractor, and every firm,  
voluntary association, and private corporation, including  
any public service corporation and including an independent  
contractor who has any person in service under any  
appointment or contract of hire, expressed or implied, oral  
or written, and the legal representative of any deceased  
employer or the receiver or trustee thereof; and

(2) any association, corporation, or organization that  
seeks permission and meets the requirements set by the

division by rule for a group of individual employers to  
operate as self-insured under plan No. 1 of this chapter."

Section 2. Section 39-71-2103, MCA, is amended to  
read:

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the division to have the requisite financial ability to pay  
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then the division shall grant to the employer permission to  
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election is made and such proof filed, or the remaining  
portion of such fiscal year, and to make such payments  
directly to his employees as they may become entitled to  
receive the same.

(2) Each individual employer in an association,  
corporation, or organization of employers given permission  
by the division to operate as self-insured under plan No. 1  
of this chapter is jointly and severally liable for all  
obligations incurred by the association, corporation, or  
organization under this chapter. An association,  
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6 SOLVENCY OR FINANCIAL ABILITY TO PAY the compensation herein  
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18 liabilities of the employer which may reasonably and  
19 ordinarily be expected to accrue during the fiscal year.

20 (2) The security must be deposited with the division  
21 and may be a certain estimated percent of the employer's  
22 last preceding annual payroll or a certain percent of the  
23 established amount of his annual payroll for the fiscal  
24 year; or the security may be in the form of a bond or  
25 undertaking executed to the division in the amount to be

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2 undertaking must be conditioned that the employer will well  
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9 division deems solvent; and every such deposit and the  
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12 as in its judgment may be required, and upon proof of the  
13 final payment of the liability for which such securities are  
14 given, such securities or any remaining part thereof shall  
15 be returned to the depositor.

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17 safekeeping of all such deposits or securities and shall, at  
18 any time, upon demand of a bondsman or the depositor,  
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20 NEW SECTION. Section 4. Extension of authority. Any  
21 existing authority of the division of workers' compensation  
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THIRD READING

SB 440





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3 MANNING, RAPP-SVRCEK, HAFFEY, DRISCOLL, GAGE

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24 (2) any association, corporation, or organization that  
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