

SENATE BILL NO. 285
INTRODUCED BY HALLIGAN

IN THE SENATE

JANUARY 30, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
FEBRUARY 13, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 14, 1989	PRINTING REPORT.
FEBRUARY 15, 1989	SECOND READING, DO PASS.
FEBRUARY 16, 1989	ENGROSSING REPORT.
FEBRUARY 17, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
FEBRUARY 20, 1989	FIRST READING.
MARCH 15, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 27, 1989	SECOND READING, CONCURRED IN.
MARCH 29, 1989	THIRD READING, CONCURRED IN. AYES, 97; NOES, 0.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 1, 1989	RECEIVED FROM HOUSE.
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SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 4, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

APRIL 7, 1989

REPORTED CORRECTLY ENROLLED.

APRIL 8, 1989

SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 8, 1989

SIGNED BY SPEAKER.

IN THE SENATE

APRIL 10, 1989

DELIVERED TO GOVERNOR.

APRIL 17, 1989

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 18, 1989

SECOND READING, GOVERNOR'S AMEND-
MENTS CONCURRED IN.

APRIL 19, 1989

THIRD READING, GOVERNOR'S AMENDMENTS
CONCURRED IN.

IN THE HOUSE

APRIL 21, 1989

SECOND READING, GOVERNOR'S AMENDMENTS
CONCURRED IN.

THIRD READING, GOVERNOR'S AMENDMENTS
CONCURRED IN.

IN THE SENATE

APRIL 24, 1989

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *285*
 2 INTRODUCED BY *Halligan*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW PUBLIC
 5 CORPORATIONS OTHER THAN STATE AGENCIES TO ESTABLISH,
 6 SEPARATELY OR JOINTLY, A WORKERS' COMPENSATION
 7 SELF-INSURANCE FUND THROUGH THE ISSUANCE AND SALE OF BONDS
 8 AND NOTES; AMENDING SECTION 39-71-403, MCA; AND PROVIDING AN
 9 IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 39-71-403, MCA, is amended to read:
 13 "39-71-403. Plan three exclusive for state agencies --
 14 election of plan by other public corporations -- financing
 15 of self-insurance fund. (1) Where If a state agency is the
 16 employer, the terms, conditions, and provisions of
 17 compensation plan No. 3 ~~shall be~~ are exclusive, compulsory,
 18 and obligatory upon both employer and employee. Any sums
 19 necessary to be paid under the provisions of this chapter by
 20 any state agency ~~shall must~~ must be considered to be ordinary and
 21 necessary expense of the agency, ~~and the~~ The agency shall
 22 make appropriation of and pay ~~such the~~ the sums into the state
 23 compensation insurance fund at the time and in the manner
 24 provided for in this chapter, notwithstanding that the state
 25 agency may have failed to anticipate ~~such the~~ the ordinary and

1 necessary expense in any budget, estimate of expenses,
 2 appropriations, ordinances, or otherwise.

3 (2) A public corporation, other than a state agency,
 4 may elect coverage under compensation plan No. 1, employer;
 5 plan No. 2, insurer; or plan No. 3, ~~state--insurance--fund,~~
 6 separately or jointly with any other public corporation,
 7 other than a state agency. A public corporation electing
 8 compensation plan No. 1 may purchase reinsurance or issue
 9 bonds or notes pursuant to subsection (3)(b). A public
 10 corporation electing compensation plan No. 1 is subject to
 11 the same provisions as a private employer electing
 12 compensation plan No. 1.

13 (3) (a) A public corporation, other than a state
 14 agency, that elects plan No. 1 may establish a fund
 15 sufficient to pay the compensation and benefits provided for
 16 in this chapter and chapter 72 and to discharge all
 17 liabilities that reasonably incur during the fiscal year for
 18 which the election is effective. Proceeds from the fund must
 19 be used only to pay claims covered by this chapter and
 20 chapter 72 and for actual and necessary expenses required
 21 for the efficient administration of the fund, including debt
 22 service on any bonds and notes issued pursuant to subsection
 23 (3)(b).

24 (b) (i) A public corporation, other than a state
 25 agency, separately or jointly with another public

1 corporation, other than a state agency, may issue and sell
 2 its bonds and notes for the purpose of establishing, in
 3 whole or in part, the self-insurance workers' compensation
 4 fund provided for in subsection (3)(a) and to pay the costs
 5 associated with the sale and issuance of the bonds. Bonds
 6 and notes may be issued in an amount not exceeding 3% of the
 7 taxable valuation of the public corporation as of the date
 8 of issue. The bonds and notes must be authorized by
 9 resolution of the governing body of the public corporation
 10 and are payable from an annual property tax levied in the
 11 amount necessary to pay principal and interest on the bonds
 12 or notes. This authority to levy an annual property tax
 13 exists despite any provision of law or maximum levy
 14 limitation to the contrary. The revenues derived from the
 15 sale of the bonds and notes may not be used for any other
 16 purpose.

17 (ii) The bonds and notes:

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

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

21 (C) may contain other terms and provisions as the
 22 governing body determines.

23 (iii) Two or more public corporations, other than state
 24 agencies, may agree to exercise their respective borrowing
 25 powers jointly under this subsection (3)(b) or may authorize

1 a joint board to exercise the powers on their behalf.

2 (iv) The fund established from the proceeds of bonds
 3 and notes issued and sold under this subsection (3)(b) may,
 4 if sufficient, be used in lieu of a surety bond,
 5 reinsurance, specific and aggregate excess insurance, or any
 6 other form of additional security necessary to demonstrate
 7 the public corporation's ability to discharge all
 8 liabilities as provided in subsection (3)(a). Subject to the
 9 3% of taxable valuation limitation in (3)(b)(i), a public
 10 corporation may issue bonds and notes to establish a fund
 11 sufficient to discharge liabilities for periods greater than
 12 1 year.

13 (4) All money in the fund established under subsection
 14 (3)(a) not needed to meet immediate expenditures must be
 15 invested by the governing body of the public corporation or
 16 the joint board created by two or more public corporations
 17 as provided in subsection (3)(b)(iii), and all proceeds of
 18 the investment shall must be credited to the fund."

19 NEW SECTION. Section 2. Extension of authority. Any
 20 existing authority to make rules on the subject of the
 21 provisions of [this act] is extended to the provisions of
 22 [this act].

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

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB285, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 285 allows public corporations other than state agencies to establish, separately or jointly, a workers' compensation self-insurance fund through the issuance and sale of bonds and notes.

ASSUMPTIONS:

1. The Division of Workers' Compensation will not be required to regulate or review the bond issues.
2. Workers' Compensation claims have priority over debt service or repayment of the bond issue.
3. Bonds are not secured with assets of the trust fund.
4. The Division retains its discretion to approve, deny, or set conditions for self insurers, including excess insurance and security deposits.

FISCAL IMPACT:

The fiscal impact is difficult to determine; however, it does not appear there will be any significant additional costs to the Division.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Section 1(2), last sentence, specifies, "A public corporation electing compensation plan 1 is subject to the same provisions as a private employer electing compensation plan 1." This may conflict with Section 39-71-2106, MCA, which provides a security deposit may be a surety bond, government bond or letter of credit approved by the Division." Section 39-71-2103(2) specifies a corporation must maintain excess insurance. It also conflicts with the previous sentence in 39-71-403, which provides, "A public corporation electing compensation plan no. 1 may purchase reinsurance or issue bonds or notes pursuant to subsection (3)(b). It is clear that with the proposed amendments, a public corporation is not subject to the same provisions as a private employer since the private employer may be required to provide a surety bond and maintain excess insurance.

Ray Shackelford 2/4/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

Mike Halligan 2-6-89
MIKE HALLIGAN, PRIMARY SPONSOR DATE

Fiscal Note for SB285, as introduced

SB 285

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

SENATE BILL NO. 285

INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW PUBLIC CORPORATIONS OTHER THAN STATE AGENCIES TO ESTABLISH, SEPARATELY OR JOINTLY, A WORKERS' COMPENSATION SELF-INSURANCE FUND THROUGH THE ISSUANCE AND SALE OF BONDS AND NOTES; ~~AND AMENDING SECTION 39-71-403, MCA;---AND PROVIDING-AN-IMMEDIATE-EFFECTIVE-DATE.~~"

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

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

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necessary expense in any budget, estimate of expenses, appropriations, ordinances, or otherwise.

(2) A public corporation, other than a state agency, may elect coverage under compensation plan No. 1, employer; plan No. 2, insurer; or plan No. 3, ~~state-insurance-fund;~~ separately or jointly with any other public corporation, other than a state agency. A public corporation electing compensation plan No. 1 may purchase reinsurance or issue bonds or notes pursuant to subsection (3)(b). A public corporation electing compensation plan No. 1, OTHER THAN A CORPORATION ISSUING BONDS OR NOTES PURSUANT TO SUBSECTION (3)(B), 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 chapter 72 and to discharge all liabilities that reasonably incur 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 chapter 72 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

1 agency, separately or jointly with another public
 2 corporation, other than a state agency, may issue and sell
 3 its bonds and notes for the purpose of establishing, in
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 5 fund provided for in subsection (3)(a) and to pay the costs
 6 associated with the sale and issuance of the bonds. Bonds
 7 and notes may be issued in an amount not exceeding 3% of the
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 11 and are payable from an annual property tax levied in the
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 25 agencies, may agree to exercise their respective borrowing

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 18 as provided in subsection (3)(b)(iii), and all proceeds of
 19 the investment shall must be credited to the fund."

20 NEW SECTION. Section 2. Extension of authority. Any
 21 existing authority to make rules on the subject of the
 22 provisions of [this act] is extended to the provisions of
 23 [this act].

24 ~~NEW SECTION. --Section 3. --Effective date. --[This act] is~~
 25 ~~effective on passage and approval.~~

-End-

SENATE BILL NO. 285
INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW PUBLIC CORPORATIONS OTHER THAN STATE AGENCIES TO ESTABLISH, SEPARATELY OR JOINTLY, A WORKERS' COMPENSATION SELF-INSURANCE FUND THROUGH THE ISSUANCE AND SALE OF BONDS AND NOTES; AND AMENDING SECTION 39-71-403, MCA, ~~AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.~~"

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necessary expense in any budget, estimate of expenses, appropriations, ordinances, or otherwise.

(2) A public corporation, other than a state agency, may elect coverage under compensation plan No. 1, employer; plan No. 2, insurer; or plan No. 3, ~~state-insurance-fund~~, separately or jointly with any other public corporation, other than a state agency. A public corporation electing compensation plan No. 1 may purchase reinsurance or issue bonds or notes pursuant to subsection (3)(b). A public corporation electing compensation plan No. 1, OTHER THAN A CORPORATION ISSUING BONDS OR NOTES PURSUANT TO SUBSECTION (3)(B), 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 chapter 72 and to discharge all liabilities that reasonably incur 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 chapter 72 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 3% of the taxable valuation 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 to the contrary. The revenues derived from the sale of the bonds and notes may not be used for any other purpose.

(ii) The bonds and notes:

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

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

(C) may contain other terms and provisions as the governing body determines.

(iii) 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) 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 3% of taxable valuation limitation in (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) All money in the fund established under subsection (3)(a) not needed to meet immediate expenditures must be invested by 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 investment shall must be credited to the fund."

NEW SECTION. Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

~~NEW SECTION. Section 2. Effective date. (This act) is effective on passage and approval.~~

-End-

-4-

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Labor and Employment Relations report that SENATE BILL 285 (third reading copy -- blue) be concurred in as amended.

Signed: Angela Russell
Angela Russell, Chairman

[REP. SMITH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 8.
Following: "NOTES;"
Strike: "AND"

2. Title, line 9.
Following: "~~DATE~~"
Insert: ";AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 4.
Following: line 25
Insert: "NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval."

HOUSE

SB 285

SENATE BILL NO. 285

INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW PUBLIC CORPORATIONS OTHER THAN STATE AGENCIES TO ESTABLISH, SEPARATELY OR JOINTLY, A WORKERS' COMPENSATION SELF-INSURANCE FUND THROUGH THE ISSUANCE AND SALE OF BONDS AND NOTES; ~~AND~~ AMENDING SECTION 39-71-403, MCA; ~~AND PROVIDING--AN--IMMEDIATE--EFFECTIVE--DATE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.~~"

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agency may have failed to anticipate such the ordinary and necessary expense in any budget, estimate of expenses, appropriations, ordinances, or otherwise.

(2) A public corporation, other than a state agency, may elect coverage under compensation plan No. 1, ~~employer;~~ plan No. 2, ~~insurer;~~ or plan No. 3, ~~state--insurance--fund;~~ separately or jointly with any other public corporation, other than a state agency. A public corporation electing compensation plan No. 1 may purchase reinsurance or issue bonds or notes pursuant to subsection (3)(b). A public corporation electing compensation plan No. 1, OTHER THAN A CORPORATION ISSUING BONDS OR NOTES PURSUANT TO SUBSECTION (3)(B). is subject to the same provisions as a private employer electing compensation plan No. 1.

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 3 corporation, other than a state agency, may issue and sell
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 6 fund provided for in subsection (3)(a) and to pay the costs
 7 associated with the sale and issuance of the bonds. Bonds
 8 and notes may be issued in an amount not exceeding 3% of the
 9 taxable valuation of the public corporation as of the date
 10 of issue. The bonds and notes must be authorized by
 11 resolution of the governing body of the public corporation
 12 and are payable from an annual property tax levied in the
 13 amount necessary to pay principal and interest on the bonds
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 17 sale of the bonds and notes may not be used for any other
 18 purpose.

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 22 statutory debt limitation; and

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25 (iii) Two or more public corporations, other than state

1 agencies, may agree to exercise their respective borrowing
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 3 a joint board to exercise the powers on their behalf.

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 22 existing authority to make rules on the subject of the
 23 provisions of [this act] is extended to the provisions of
 24 [this act].

25 NEW-SECTION. Section 3. Effective date. [This act] is

SB 0285/03

1 ~~effective-on-passage-and-approval-~~

2 NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS

3 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

GOVERNOR'S AMENDMENT
TO SENATE BILL NO. 285
(REFERENCE COPY)
April 15, 1989

1. Page 2, lines 11 and 12.
Following: "corporation electing compensation plan No. 1"
Strike: ", OTHER THAN A CORPORATION ISSUING BONDS OR NOTES
PURSUANT TO SUBSECTION (3)(B),"

-END-

1 SENATE BILL NO. 285

2 INTRODUCED BY HALLIGAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW PUBLIC
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12 ~~CORPORATION ISSUING BONDS OR NOTES PURSUANT TO SUBSECTION~~
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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) 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 3% of taxable valuation limitation in (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) All money in the fund established under subsection (3)(a) not needed to meet immediate expenditures must be invested by 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 investment shall must be credited to the fund."

NEW SECTION. Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW-SECTION:--Section-3.--Effective date. [This act] is

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1 ~~effective-on-passage-and-approval-~~

2 NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS

3 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-