

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *208*
 2 INTRODUCED BY *Dwight Lynn Benedict Hillard*
 3 *Cochran, Carlson Dan Blaylock*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT DEPOSITS
 5 BY EMPLOYERS TO THE MONTANA SELF-INSURERS GUARANTY FUND
 6 REQUIRED BY THE DEPARTMENT OF LABOR AND INDUSTRY BE IN AN
 7 AMOUNT CONCURRED WITH BY THE MONTANA SELF-INSURERS GUARANTY
 8 FUND; AND AMENDING SECTIONS 39-71-2105 AND 39-71-2106, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 39-71-2105, MCA, is amended to read:

12 "39-71-2105. Additional proof of solvency -- revocation
 13 of order. The department, with the concurrence of the
 14 Montana self-insurers guaranty fund, may at any time require
 15 from any employer acting under compensation plan No. 1
 16 additional proof of solvency and financial ability to pay
 17 the compensation provided by this chapter and may at any
 18 time, upon notice to such the employer of not less than 10
 19 or more than 20 days, after and upon a full hearing, revoke
 20 any order or approval theretofore-made."

21 **Section 2.** Section 39-71-2106, MCA, is amended to read:

22 "39-71-2106. Requiring security of employer. (1) (a)
 23 The department, with the concurrence of the Montana
 24 self-insurers guaranty fund, may require any employer who
 25 elects to be bound by compensation plan No. 1 to provide a

1 security deposit ~~in accordance with rules adopted by the~~
 2 department. Except as provided in subsection (1)(b), the
 3 security deposit may be a surety bond, government bond,
 4 certificate of deposit, or letter of credit approved by the
 5 department and must be the greater of:

6 (i) \$250,000; or

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

10 (b) The department, with the concurrence of the Montana
 11 self-insurers guaranty fund, ~~may, in accordance with rules~~
 12 ~~adopted by the department,~~ require a larger deposit as
 13 additional evidence of solvency and financial ability to pay
 14 the liabilities provided by this chapter.

15 (2) (a) The department, with the concurrence of the
 16 Montana self-insurers guaranty fund, shall require an
 17 employer to give security in addition to the security
 18 described in subsection (1) if:

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

24 (ii) the employer is an association, corporation, or
 25 organization of individual employers seeking permission to

1 operate under compensation plan No. 1.

2 (b) The additional security required in subsection
3 (2)(a) must be an amount that the department, with the
4 concurrence of the Montana self-insurers guaranty fund,
5 finds reasonable and necessary to meet all liabilities that
6 the employer may accrue under this chapter during the fiscal
7 year.

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

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

19 (ii) any state, county, municipal, or school district
20 bonds or the bonds or evidence of indebtedness of any
21 individuals or corporations that the department considers
22 solvent.

23 (b) Every deposit and the character and amount of the
24 securities must at all times be subject to approval,
25 revision, or change by the department as it may require.

1 (c) Upon proof of the final payment of the liability
2 for which the securities are given, the securities or any
3 remainder of the securities must be returned to the
4 depositor.

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

-End-

re-referred and
APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

HOUSE BILL NO. 208

INTRODUCED BY DRISCOLL, LYNCH, BENEDICT, HIBBARD,
COCCHIARELLA, PAVLOVICH, GAGE, TOWE, BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT DEPOSITS
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the compensation provided by this chapter and may at any
time, upon notice to such the employer of not less than 10
or more than 20 days, after and upon a full hearing, revoke
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Section 2. Section 39-71-2106, MCA, is amended to read:

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self-insurers guaranty fund, may require any employer who

elects to be bound by compensation plan No. 1 to provide a
security deposit in--accordance--with--rules--adopted--by--the
department IN ACCORDANCE WITH RULES ADOPTED BY THE
DEPARTMENT. Except as provided in subsection (1)(b), 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:

(i) \$250,000; or

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

(b) The department, with the concurrence of the Montana
self-insurers guaranty fund, may, in accordance with rules
adopted by the department, IN ACCORDANCE WITH RULES ADOPTED
BY THE DEPARTMENT, require a larger deposit as additional
evidence of solvency and financial ability to pay the
liabilities provided by this chapter.

(2) (a) The department, with the concurrence of the
Montana self-insurers guaranty fund, 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



1 covered by the permission provided for in 39-71-2103; or

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

5 (b) The additional security required in subsection
6 (2)(a) must be an amount that the department, with the
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12 must be deposited with the department and may be either an
13 estimated percent of the employer's last preceding annual
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16 (i) a bond or undertaking executed to the department in
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19 employer will pay or cause to be paid to his employees all
20 sums and amounts for which the employer becomes liable under
21 the terms of this chapter during the fiscal year; or

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23 bonds or the bonds or evidence of indebtedness of any
24 individuals or corporations that the department considers
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1 (b) Every deposit and the character and amount of the
2 securities must at all times be subject to approval,
3 revision, or change by the department as it may require.

4 (c) Upon proof of the final payment of the liability
5 for which the securities are given, the securities or any
6 remainder of the securities must be returned to the
7 depositor.

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

13 NEW SECTION. SECTION 3. SAVING CLAUSE. THE DEPARTMENT
14 OF LABOR AND INDUSTRY MAY REQUIRE AN EMPLOYER, WITHOUT
15 CONCURRENCE OF THE MONTANA SELF-INSURERS GUARANTY FUND, TO
16 GIVE SECURITY IN ADDITION TO THE REQUIREMENTS DESCRIBED IN
17 39-71-2105 AND 39-71-2106 FOR WORKERS' COMPENSATION
18 LIABILITIES THAT THE EMPLOYER ACCRUED PRIOR TO JULY 1, 1989.

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Section 2. Section 39-71-2106, MCA, is amended to read:

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elects to be bound by compensation plan No. 1 to provide a security deposit in--accordance--with--rules--adopted--by--the department IN ACCORDANCE WITH RULES ADOPTED BY THE DEPARTMENT. Except as provided in subsection (1)(b), 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:

(1) \$250,000; or

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

(b) The department, with the concurrence of the Montana self-insurers guaranty fund, may, in accordance with rules adopted by the department, IN ACCORDANCE WITH RULES ADOPTED BY THE DEPARTMENT, require a larger deposit as additional evidence of solvency and financial ability to pay the liabilities provided by this chapter.

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