Senate BILL NO. 353

INTRODUCED BY [signature]

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A STATE AGENCY TO ELECT WORKERS' COMPENSATION COVERAGE UNDER PLAN NO. 1, PLAN NO. 2, OR PLAN NO. 3; AMENDING SECTION 39-71-403, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

"39-71-403. Plan three exclusive for ~~state agencies~~ Montana university system -- election of plan by other public corporations -- financing of self-insurance fund -- definition. (1) If ~~a state agency~~ the Montana university system is the employer, the terms, conditions, and provisions of compensation plan No. 3, state fund, are exclusive, compulsory, and obligatory upon both employer and employee. Any sums necessary to be paid under the provisions of this chapter by ~~any state agency~~ the university system are considered to be an ordinary and necessary expense of the ~~agency~~ university system. The ~~agency~~ university system shall make an appropriation of and pay the sums into the state fund at the time and in the manner provided for in this chapter, notwithstanding that the ~~state agency~~ university system may have failed to anticipate 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, plan No. 2, or plan No. 3, separately or jointly with any other public corporation ~~other than a state agency~~. A public corporation, other than a state agency, 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 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 subsection (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 must be credited to the fund.

<u>(5) As used in subsections (2) and (3), "public corporation" includes a state agency.</u>"

NEW SECTION. **Section 2. Coordination instruction.** If Senate Bill No. 98 and [this act] are passed and approved and if both bills include a section that amends 39-71-403, then 39-71-403 will read as follows:

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

"39-71-403. ~~Plan three exclusive for state agencies -- election~~ Election of plan by ~~other~~ public corporations -- financing of self-insurance fund. ~~(1) If a state agency is the employer, the terms, conditions, and provisions of compensation plan No. 3, state fund, are exclusive, compulsory, and obligatory upon both employer and employee. Any sums necessary to be paid under the provisions of this chapter by any state agency are considered to be ordinary and necessary expense of the agency. The agency shall make appropriation of and pay the sums into the state fund at the time and in the manner provided for in this chapter, notwithstanding that the state agency may have failed to anticipate the ordinary and necessary expense in any budget, estimate of expenses, appropriations, ordinances, or otherwise.~~

~~(2)~~(1) A public corporation~~, other than a state agency,~~ may elect coverage under compensation plan No. 1, plan No. 2, or plan No. 3, separately or jointly with any other public corporation ~~other than a state agency~~. A public corporation, other than a state agency, electing compensation plan No. 1 may purchase reinsurance or issue bonds or notes pursuant to subsection ~~(3)(b)~~ (2)(b). A public corporation electing compensation plan No. 1 is subject to the same provisions as a private employer electing compensation plan No. 1.

~~(3)~~(2) (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)~~ (2)(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)~~ (2)(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)~~ (2)(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)~~ (2)(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)~~ (2)(a). Subject to the 3% of taxable valuation limitation in subsection ~~(3)(b)(i)~~ (2)(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)~~(3) All money in the fund established under subsection ~~(3)(a)~~ (2)(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)~~ (2)(b)(iii), and all proceeds of the investment must be credited to the fund.

(4) As used in this section, "public corporation" includes state agencies and the Montana university system.""

NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 1997.

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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0353, as Introduced

DESCRIPTION OF PROPOSED LEGISLATION:
Authorizes a state agency to elect workers' compensation coverage under Plan Number 1 (self-insured); Plan Number 2 (private insurer); or Plan Number 3 (State Fund).

ASSUMPTIONS:
1. Under current law, 39-71-403,MCA, the State Fund is required to provide coverage for all state agencies and all state agencies are required to insure their liability for workers' compensation with the State Fund.
2. This legislation would allow a state agency to elect insurance for their workers' compensation liability from Plan 1, Plan 2, or Plan 3, by directly exempting them from the state agency requirement to insure with the State Fund, 39-71-403(1),MCA.
3. The proposed legislation does not provide the university system the authority to elect coverage from Plan 1, Plan 2, or Plan 3. The university system would continue to insure its workers' compensation liability with the State Fund, Plan No. 3.
4. As used in the proposed statute, a state agency is included as a 'public corporation'. Public corporations, other than the university system, may elect coverage under Plan 1, Plan 2, or Plan 3.
5. There is no immediate fiscal impact from this legislation. The state agencies' will not be able to change carriers until FY99, due to the need to get bids and research self insurance. Fiscal impact will result in FY 1999 if the state agencies elect workers' compensation coverage through Plan 1 or Plan 2.
6. The average state agencies workers' compensation operating results for state agencies other than the Montana University systemfrom FY 1992 through FY 1996 are: average premium of $8,475,226; average paid losses of $3,380,223, average unpaid losses of $3,316,914; average operating expenses of $913,368 and average contribution to surplus of $864,720.
7. Estimated FY97 premium for state agencies, excluding the Montana University System, is $7,258,073. This is a decrease from FY96 premium of $1,142,694.
8. The state agencies' estimated premium for FY98 is $7,040,331, under rates in effect 7/1/96. The state agencies' estimated premium for FY99 is $7,181,137, under rates in effect 7/1/96, and assumes a 2% premium increase due to payroll growth. Estimated losses and operating expenses are $7,001,609.
9. The estimated FY99 contribution to surplus estimated to be $179,528 ($7,181,137 - $7,001,609 = $179,528). If the state agencies should elect coverage under Plan 1 or Plan 2 the State Fund will lose this contribution to surplus.
10. If state agencies choose a private carrier (Plan 2) in FY99, the private carrier will pay a premium tax of 2.75% which will go to the general fund. No estimate of this impact is presented in the fiscal note because state agencies may elect to self-insure as allowed under this legislation.
11. The Department of Administration would coordinate proposals for smaller agencies to acquire the lowest cost insurance.
12. Cost savings in the state agencies will accrue to the fund which pays the personal service expense. Based on personal services funding in FY99, the general fund share of the savings would be approximately 36.4%of the total. Other funds would receive the other 63.6% of the savings.
13. Preliminary estimates from private insurers indicate that savings in the range of 20-40% of the current premiums may be expected. For the purposes of the fiscal note, 20% was used.

Dave Lewis 2·20·97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

DELWYN GAGE, PRIMARY SPONSOR DATE

SB 353

FISCAL IMPACT:

State agencies	FY98 Difference	FY99 Difference
Expenditure:		
General fund	$0	($522,787)
Other funds	$0	($913,441)
Total	$0	($1,436,227)
Revenue:		
State Fund Contribution to Surplus	$0	($179,528)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
If state agencies choose Plan 1 or Plan 2, the State Fund's overall premium income will be reduced by the loss of the state agencies. This loss effects other employers as lower premium volume reduces the State Fund's capacity to spread losses among all employers. Sharing of losses ultimately assist all employers in that losses can be absorbed without an abrupt adverse impact on rates.

TECHNICAL NOTES:
Senate Bill 98 proposes authorizing the Montana University System to elect coverage under Plan No. 1, Plan No. 2, or Plan No. 3. New Section, Section 2 of SB0353 provides language to be enacted providing both SB0098 and SB0353 are enacted.