

SENATE BILL NO. 126

INTRODUCED BY F. THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING WORKERS' COMPENSATION SOLVENCY LAWS RELATING TO SELF-INSURED PUBLIC ENTITIES; PROVIDING FOR SOLVENCY CONSIDERATIONS FOR SELF-INSURED PUBLIC ENTITIES; EXEMPTING CERTAIN SELF-INSURED PUBLIC ENTITIES FROM SECURITY DEPOSIT REQUIREMENTS; AND AMENDING SECTIONS 39-71-2102 AND 39-71-2106, MCA."

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

Section 1. Section 39-71-2102, MCA, is amended to read:

"39-71-2102. Proof of solvency to be filed -- solvency considerations for self-insured public entities. (1) Each employer who has elected to be bound by compensation plan No. 1 shall file proof of solvency within the time and in the form prescribed by the rules or orders of the department.

(2) For public entities insured under compensation plan No. 1, the department shall determine solvency by calculating a discounted reserve estimate. The department shall calculate available funds as total assets minus 80% of property and equipment assets minus accounts payable. If available funds fall below an 85% confidence level using a discounted reserve estimate, the department may require a plan for improvement in writing."

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

"39-71-2106. Requiring security of employer. (1) (a) The department, with the concurrence of the Montana 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. All securities of the United States treasury must be in book-entry form. The security deposit may be a surety bond, government bond, certificate of deposit, or letter of credit approved by the department and the Montana self-insurers guaranty fund. For the first 3 years of operating as a self-insured employer, the employer's security deposit 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 first



1 3 of the last 4 completed calendar years.

2 (b) The department, with the concurrence of the Montana self-insurers guaranty fund, may, in
3 accordance with rules adopted by the department, require a larger deposit as additional evidence of ability to pay
4 the benefits provided by this chapter.

5 (c) The department may, with the concurrence of the Montana self-insurers guaranty fund, reduce the
6 amount of the security deposit if the evidence indicates that the full amount of the deposit is unnecessary.

7 (2) (a) The department, with the concurrence of the Montana self-insurers guaranty fund, may require
8 an employer to give security in addition to the security deposit described in subsection (1) if:

9 (i) the department, with the concurrence of the Montana self-insurers guaranty fund, determines that the
10 employer lacks the ability to pay the benefits that are expected to be paid by the employer under the terms and
11 conditions of this chapter that are chargeable to the employer during the year to be covered by the permission
12 provided for in 39-71-2103; or

13 (ii) the employer is a group of individual employers seeking permission to operate under compensation
14 plan No. 1.

15 (b) The additional security required in subsection (2)(a) must be an amount that the department, with
16 the concurrence of the Montana self-insurers guaranty fund, finds reasonable and necessary to pay the benefits
17 provided under the terms and conditions of this chapter that the employer may accrue during the year.

18 (3) (a) The security deposit provided for in subsection (1) must be deposited with the department. The
19 security deposit may consist of:

20 (i) a bond executed to the department with a surety. The security deposit must state that the employer
21 will pay or cause to be paid to employees the amount for which the employer was given permission under
22 39-71-2103 and for which the employer is liable under the terms and conditions of this chapter during the year.

23 (ii) any Montana state, county, municipal, or school district bonds that the department and the Montana
24 self-insurers guaranty fund consider solvent; or

25 (iii) other security deposits allowed in subsection (1)(a).

26 (b) Each security deposit and the character and amount of the security deposit are subject to approval,
27 revision, or change considered necessary by the department and the Montana self-insurers guaranty fund.

28 (c) Upon proof of the final payment of the liability for which the security deposit is given, the security
29 deposit or any remainder of the security deposit must be returned to the depositor.

30 (d) Payment must be made from the security deposit within 30 days of a demand by the department for

1 payment. If payment is not made within 30 days by the obligor on the security deposit, the obligor is liable to the
2 department for interest at the annual rate of 10% on the amount unpaid.

3 (4) The department is liable for the value and safekeeping of all security deposits and shall, at any time,
4 upon demand of the depositor, account for the security deposits.

5 (5) This section does not apply to self-insured public entities that cannot be insolvent."

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