

1 HOUSE BILL NO. 277

2 INTRODUCED BY N. NICOL, L. BREWSTER, M. BINKLEY, T. SMITH

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4 A BILL FOR AN ACT ENTITLED: "ELIMINATING THE REQUIREMENT THAT THE STATE COMPENSATION
5 INSURANCE FUND ANNUALLY TRANSFER FUNDS TO THE AUDITOR'S OFFICE TO FUND CERTAIN
6 EMPLOYEES; AND AMENDING SECTION 39-71-2375, MCA."

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

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10 **Section 1.** Section 39-71-2375, MCA, is amended to read:11 **"39-71-2375. Operation of state fund as authorized insurer -- issuance of certificate of authority**

12 **-- exceptions -- use of calendar year -- risk-based capital -- reporting requirements.** (1) The state fund
13 provided for in 39-71-2313 is an authorized insurer and, except as provided in this section, is subject to the
14 provisions in Title 33 that are generally applicable to authorized workers' compensation insurers in this state
15 and the provisions of Title 39, chapter 71, part 23.

16 (2) (a) The commissioner shall issue a certificate of authority to the state fund to write workers'
17 compensation insurance coverages, as provided in 39-71-2316, and except as otherwise provided in this
18 section the requirements of Title 33, chapter 2, part 1, do not apply. The certificate of authority must be
19 continuously renewed by the commissioner.

20 (b) The state fund shall pay the annual fee under 33-2-708, provide the surplus funds required
21 under 33-2-109 and 33-2-110, and provide to the commissioner the available documentation and information
22 that is provided by other insurers when applying for a certificate of authority under 33-2-115.

23 (c) The state fund is subject to the reporting requirements under 33-2-705 but is not subject to the
24 tax on net premiums.

25 (d) The state fund is subject to the provisions of Title 33, chapter 2, part 24, if it contracts with one
26 or more pharmacy benefit managers as defined in 33-2-2402.

27 (3) (a) The state fund, as the guaranteed market for workers' compensation insurance for
28 employers pursuant to 39-71-2313, is not subject to:

- 1 (i) formation requirements of an insurer under Title 33, chapter 3;
- 2 (ii) revocation or suspension of its certificate of authority under any provision of Title 33 or any
3 order or any provision that requires forfeiture of the state fund's obligation to insure employers as required in
4 39-71-2313;
- 5 (iii) liquidation or dissolution under Title 33;
- 6 (iv) participation in the guaranty association provided for in Title 33, chapter 10;
- 7 (v) 33-12-104; or
- 8 (vi) any assessment of punitive or exemplary damages.
- 9 (b) The state fund is subject to 33-16-1023, except as provided in 39-71-2316(1)(e), (1)(f), and
10 (1)(g).
- 11 (4) The state fund shall complete financial reporting and accounting on a calendar year basis.
- 12 (5) (a) If the state fund's risk-based capital falls below the company action level RBC as defined in
13 33-2-1902, the commissioner shall issue a report to the governor, the state fund board of directors, and to the
14 legislature. If the legislature is not in session, the report must go to the economic affairs interim committee in
15 accordance with 5-11-210 and to the legislative auditor. The report must provide a description of the RBC
16 measurement, the regulatory implications of the state fund falling below the RBC criteria, and the state fund's
17 corrective action plan. If the commissioner is reporting on a regulatory action level RBC event, the report must
18 include the state fund's corrective action plan, results of any examination or analysis by the commissioner, and
19 any corrective orders issued by the commissioner.
- 20 (b) If the state fund fails to comply with any lawful order of the commissioner, the commissioner
21 may initiate supervision proceedings under Title 33, chapter 2, part 13, against state fund. If the state fund fails
22 to comply with the commissioner's lawful supervision order under this subsection (5)(b), the commissioner may
23 institute rehabilitation proceedings under Title 33, chapter 2, part 13, only if the commissioner is petitioning for
24 rehabilitation based on the grounds provided in 33-2-1321(1) or (2).
- 25 (6) ~~The state fund shall annually transfer funds to the commissioner, out of its surplus, for all
26 necessary staffing and related expenses for a full-time attorney licensed to practice law in Montana and a full-
27 time examiner qualified by education, training, experience, and high professional competence to examine the
28 state fund pursuant to Title 33, chapter 1, part 4, and this section. The attorney and examiner must be~~

1 ~~employees of the commissioner.~~

2 (7)—For the purposes of this section, the term "guaranteed market" has the definition provided in 39-

3 71-2312."

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