

SENATE BILL NO. 11

INTRODUCED BY L. JONES

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INSURANCE PREMIUM TAX RATES RELATING TO THE STATE FUND; REVISING LAWS TO MAKE THE STATE FUND SUBJECT TO THE TAX ON NET PREMIUMS WRITTEN; AMENDING SECTIONS 33-1-115 AND 39-71-2375, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 33-1-115, MCA, is amended to read:

"33-1-115. Operation of state fund as authorized insurer -- issuance of certificate of authority -- exceptions -- use of calendar year -- risk-based capital -- reporting requirements. (1) The state fund provided for in 39-71-2313 is an authorized insurer and, except as provided in this section, is subject to the provisions in Title 33 that are generally applicable to authorized workers' compensation insurers in this state and the provisions of Title 39, chapter 71, part 23.

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

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

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

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

- (i) formation requirements of an insurer under Title 33, chapter 3;
- (ii) revocation or suspension of its certificate of authority under any provision of Title 33 or any order or any provision that requires forfeiture of the state fund's obligation to insure employers as required in 39-71-2313;

- 1 (iii) liquidation or dissolution under Title 33;
- 2 (iv) participation in the guaranty association provided for in Title 33, chapter 10;
- 3 (v) 33-12-104; or
- 4 (vi) any assessment of punitive or exemplary damages.
- 5 (b) The state fund is subject to 33-16-1023, except as provided in 39-71-2316(1)(e), (1)(f), and (1)(g).
- 6 (4) The state fund shall complete financial reporting and accounting on a calendar year basis.
- 7 (5) (a) If the state fund's risk-based capital falls below the company action level RBC as defined in
- 8 33-2-1902, the commissioner shall issue a report to the governor, the state fund board of directors, and to the
- 9 legislature. If the legislature is not in session, the report must go to the economic affairs interim committee and
- 10 to the legislative auditor. The report must provide a description of the RBC measurement, the regulatory
- 11 implications of the state fund falling below the RBC criteria, and the state fund's corrective action plan. If the
- 12 commissioner is reporting on a regulatory action level RBC event, the report must include the state fund's
- 13 corrective action plan, results of any examination or analysis by the commissioner, and any corrective orders
- 14 issued by the commissioner.
- 15 (b) If the state fund fails to comply with any lawful order of the commissioner, the commissioner may
- 16 initiate supervision proceedings under Title 33, chapter 2, part 13, against state fund. If the state fund fails to
- 17 comply with the commissioner's lawful supervision order under this subsection (5)(b), the commissioner may
- 18 institute rehabilitation proceedings under Title 33, chapter 2, part 13, only if the commissioner is petitioning for
- 19 rehabilitation based on the grounds provided in 33-2-1321(1) or (2).
- 20 (6) The state fund shall annually transfer funds to the commissioner, out of its surplus, for all necessary
- 21 staffing and related expenses for a full-time attorney licensed to practice law in Montana and a full-time examiner
- 22 qualified by education, training, experience, and high professional competence to examine the state fund
- 23 pursuant to Title 33, chapter 1, part 4, and this section. The attorney and examiner must be employees of the
- 24 commissioner.
- 25 (7) For the purposes of this section, the term "guaranteed market" has the definition provided in
- 26 39-71-2312."
- 27

28 **Section 2.** Section 39-71-2375, MCA, is amended to read:

29 **"39-71-2375. Operation of state fund as authorized insurer -- issuance of certificate of authority**

30 **-- exceptions -- use of calendar year -- risk-based capital -- reporting requirements.** (1) The state fund

1 provided for in 39-71-2313 is an authorized insurer and, except as provided in this section, is subject to the
2 provisions in Title 33 that are generally applicable to authorized workers' compensation insurers in this state and
3 the provisions of Title 39, chapter 71, part 23.

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

8 (b) The state fund shall pay the annual fee under 33-2-708, provide the surplus funds required under
9 33-2-109 and 33-2-110, and provide to the commissioner the available documentation and information that is
10 provided by other insurers when applying for a certificate of authority under 33-2-115.

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

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

15 (i) formation requirements of an insurer under Title 33, chapter 3;

16 (ii) revocation or suspension of its certificate of authority under any provision of Title 33 or any order or
17 any provision that requires forfeiture of the state fund's obligation to insure employers as required in 39-71-2313;

18 (iii) liquidation or dissolution under Title 33;

19 (iv) participation in the guaranty association provided for in Title 33, chapter 10;

20 (v) 33-12-104; or

21 (vi) any assessment of punitive or exemplary damages.

22 (b) The state fund is subject to 33-16-1023, except as provided in 39-71-2316(1)(e), (1)(f), and (1)(g).

23 (4) The state fund shall complete financial reporting and accounting on a calendar year basis.

24 (5) (a) If the state fund's risk-based capital falls below the company action level RBC as defined in
25 33-2-1902, the commissioner shall issue a report to the governor, the state fund board of directors, and to the
26 legislature. If the legislature is not in session, the report must go to the economic affairs interim committee and
27 to the legislative auditor. The report must provide a description of the RBC measurement, the regulatory
28 implications of the state fund falling below the RBC criteria, and the state fund's corrective action plan. If the
29 commissioner is reporting on a regulatory action level RBC event, the report must include the state fund's
30 corrective action plan, results of any examination or analysis by the commissioner, and any corrective orders

1 issued by the commissioner.

2 (b) If the state fund fails to comply with any lawful order of the commissioner, the commissioner may
3 initiate supervision proceedings under Title 33, chapter 2, part 13, against state fund. If the state fund fails to
4 comply with the commissioner's lawful supervision order under this subsection (5)(b), the commissioner may
5 institute rehabilitation proceedings under Title 33, chapter 2, part 13, only if the commissioner is petitioning for
6 rehabilitation based on the grounds provided in 33-2-1321(1) or (2).

7 (6) The state fund shall annually transfer funds to the commissioner, out of its surplus, for all necessary
8 staffing and related expenses for a full-time attorney licensed to practice law in Montana and a full-time examiner
9 qualified by education, training, experience, and high professional competence to examine the state fund
10 pursuant to Title 33, chapter 1, part 4, and this section. The attorney and examiner must be employees of the
11 commissioner.

12 (7) For the purposes of this section, the term "guaranteed market" has the definition provided in
13 39-71-2312."

14

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

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