

1 IN THE SENATE

BY SENATORS OWEN AND BELTZ

2 SENATE BILL NO. 69

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a non-profit exclusive state  
7 compensation insurance fund; and providing  
8 for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 Section 1. STATE COMPENSATION INSURANCE FUND. (1) There is  
11 hereby created and established a non-profit exclusive fund to be  
12 known as the "State Compensation Insurance Fund", to be administer-  
13 ed by the Commissioner of Labor, for the purpose of insuring em-  
14 ployers against liability for injuries sustained by their employees  
15 in the course of employment and of insuring to employees and other  
16 persons the compensation and benefits provided in the state work-  
17 men's compensation law for employees and their dependents.

18 (2) The fund may transact and solicit workmen's compen-  
19 sation insurance required or authorized by law of this state to  
20 the same extent as any other insurer and shall be subject to the  
21 same rate making laws and regulations as any other insurer includ-  
22 ing the payment of taxes and making reports to the state insurance  
23 commissioner or any state agencies.

24 (3) The fund may insure employers against their liabil-  
25 ity for compensation or damages under the United States Longshore-  
26 men's and Harbor Workers' Compensation Act, or any extension of  
27 that Act as fully as any other insurer.

28 (4) The fund may also insure an employer against his  
29 liability for damages arising out of injury to or death of his

1 employees, as fully as any other insurer.

2 (5) The State Compensation Insurance Fund shall consist  
3 of:

4 (a) Such specific appropriations as the legislature  
5 from time to time makes or sets aside for the use of the fund.

6 (b) All premiums received and paid into the fund  
7 for insurance issued by it.

8 (c) All property and securities acquired by and  
9 through the use of moneys belonging to the fund and acquired  
10 by gift or otherwise.

11 (d) All interest earned upon moneys belonging to  
12 the fund and deposited or invested as provided in this sec-  
13 tion.

14 (6) The fund shall, after a reasonable time during which  
15 it may establish a business, be fairly competitive with other in-  
16 surers, and it is the intent of the legislature that the fund shall  
17 ultimately become neither more nor less than self-supporting. For  
18 that purpose loss experience and expense shall be ascertained and  
19 dividends or credits may be made as provided in this section. The  
20 fund shall be exempt from any financial or budgetary control or  
21 supervision by any state agency except for the audit made by the  
22 state insurance commissioner for all insurance carriers.

23 (7) The actual loss experience and expense of the fund  
24 shall be ascertained on or about the first of July in each year  
25 for the calendar year preceding. If it is then shown that there  
26 exists an excess of assets over liabilities, necessary reserves,  
27 and a reasonable surplus for the catastrophe hazard, then a cash  
28 dividend may be declared to, or credit allowed on the renewal  
29 premium of each employer who has been insured with the fund. Such

1 cash dividend or credit is to be in an amount which the commissioner  
2 in his discretion considers to be the employer's proportion of  
3 divisible surplus.

4 (8) The assets of the fund shall be applicable to the  
5 payment of losses sustained on account of insurance and to the  
6 payment of the salaries and all other administrative expenses  
7 charged against it.

8 (9) The fund may acquire and own (including sale and re-  
9 purchase) real property for its offices when so determined by the  
10 commissioner and may, if necessary, construct suitable buildings  
11 thereon.

12 (10) The state treasurer shall be the custodian of all  
13 moneys and securities belonging to the State Compensation Insurance  
14 Fund except as provided in this section. He shall be liable on  
15 his official bond for their safe keeping.

16 (11) All moneys which belong to the fund and are collec-  
17 ted or received under this chapter shall be delivered to the state  
18 treasurer or deposited to his credit in such bank or banks through-  
19 out the State as he designates, but such moneys are not state  
20 moneys.

21 (12) All securities belonging to the fund shall be de-  
22 livered to the treasurer and held by him until otherwise disposed  
23 of as provided in this chapter.

24 (13) Upon such delivery or deposit, such moneys and  
25 securities shall be credited by the state treasurer to the fund.  
26 No moneys received or collected on account of the fund shall be  
27 expended or paid out without first passing into the state treasury  
28 and being drawn therefrom as provided in this chapter.

29 (14) The state treasurer shall keep a special ledger

1 account showing all of the assets pertaining to the State Compensation  
2 tion Insurance Fund. In the state treasurer's general ledger this  
3 account may appear as a cash account, like other accounts of funds  
4 in the state treasury, and only the actual cash coming into the  
5 State Compensation Insurance Fund shall be entered in the account.

6 (15) Expenditures made from the revolving fund in pay-  
7 ments made in connection with the insurance business transacted by  
8 the State Compensation Insurance Fund are exempted from the re-  
9 strictions imposed upon the expenditures of state moneys. Reim-  
10 bursement of the revolving fund for such expenditures shall be  
11 made upon presentation to the state treasurer of an abstract or  
12 statement of such expenditures. Such abstract shall be in the  
13 form required by the treasurer.

14 (16) The commissioner shall cause all moneys in the  
15 State Compensation Insurance Fund which are in excess of current  
16 requirements to be invested and reinvested, from time to time, in  
17 securities authorized by law for the investment of funds of  
18 savings banks.

19 (17) All moneys in the State Compensation Insurance Fund,  
20 in excess of current requirements and not otherwise invested, may  
21 be deposited by the state treasurer from time to time in banks  
22 authorized by law to receive deposits of public moneys, under the  
23 same rules and regulations that govern the deposit of public funds.  
24 The interest accruing thereon shall be credited to the State Com-  
25 pensation Insurance Fund.

26 (18) During the months of January and July of each year,  
27 the commissioner shall cause a valuation to be made of the  
28 properties and securities acquired and held for the State Compen-  
29 sation Insurance Fund and shall report the results of the valuation

1 to the governor and state insurance commissioner.

2 (19) All business and affairs of the fund including any  
3 litigation shall be conducted in the name of the State Compensa-  
4 tion Insurance Fund, and in that name, without any other name or  
5 title, the commissioner or manager of the State Fund may perform  
6 the acts authorized by this section.

7 (20) The State Compensation Insurance Fund may:

8 (a) Sue and be sued in all actions arising out of  
9 any act or omission in connection with its business or affairs.  
10 Service of process in suits affecting the fund shall be made  
11 upon the manager of the fund and he shall be responsible for  
12 initiating all litigation necessary in the affairs of the  
13 fund. The attorney general of the state shall furnish all  
14 legal services required in respect to such litigation.

15 (b) Enter into any contracts or obligations relat-  
16 ing to the fund which are authorized or permitted by law.

17 (c) Invest and reinvest the moneys belonging to  
18 the fund as provided by this section.

19 (d) Conduct all business and affairs and perform  
20 all acts relating to the fund whether or not specifically  
21 designated in this section.

22 (21) The statistical and actuarial data compiled by  
23 the State Compensation Insurance Fund shall at all times be avail-  
24 able to the insurance commissioner for his use in judging the  
25 adequacy of inadequacy of rates and schedules filed by other  
26 carriers. The manager of the fund shall make to the insurance  
27 commissioner, all reports required by law to be made to him by  
28 other insurers.

29 Sec. 2. THE STATE COMPENSATION INSURANCE FUND COMMISSIONER.

1 (1) The State Compensation Insurance Fund shall be administered by  
2 the State Compensation Insurance Fund Commissioner hereinafter  
3 called the "commissioner".

4 (2) The commissioner shall be appointed by the Governor  
5 and serve at his pleasure.

6 (3) The commissioner is hereby vested with full power,  
7 authority, and jurisdiction over the State Compensation Insurance  
8 Fund. The commissioner may perform all acts necessary or conven-  
9 -ient in the exercise of any power, authority or jurisdiction over  
10 the fund, either in the administration thereof or in connection with  
11 the insurance business to be carried on by him under the provisions  
12 of this section, as fully and completely as the governing body of  
13 a private insurance carrier.

14 (4) The commissioner shall have the authority to adopt  
15 rules and regulations relating to the conduct of the business of  
16 the fund.

17 (5) The commissioner shall have an annual audit of the  
18 books and records of the State Compensation Insurance Fund made by  
19 a duly qualified certified public accountant and shall cause an  
20 abstract summary of this audit to be published one or more times in  
21 at least two newspapers of general circulation in the state.

22 Sec. 3. MANAGER OF STATE COMPENSATION INSURANCE FUND. (1)  
23 The commissioner shall appoint a manager of the fund and fix his  
24 salary. The manager shall manage and conduct the business and  
25 affairs of the fund under the general direction and subject to the  
26 approval of the commissioner and shall perform such other duties  
27 as the commissioner prescribes.

28 (2) Before entering on the duties of his office, the  
29 manager shall qualify by giving an official bond approved by the

1 commissioner, in the sum of twenty thousand dollars (\$20,000.00)  
2 and by taking and subscribing to an official oath. The approval of  
3 the commissioner shall be by written endorsement on the bond. The  
4 bond shall be filed in the office of the secretary of state.

5 (3) The commissioner may delegate to the manager of the  
6 fund, under such rules and regulations and subject to such condi-  
7 tions as he may from time to time prescribe, any power, function or  
8 duty conferred by law on the commissioner in connection with the  
9 fund or in connection with the administration, management and con-  
10 duct of the business and affairs of the fund. The manager may  
11 exercise such powers and functions and perform such duties with the  
12 same force and effect as the commissioner, but subject to his  
13 approval.

14 (4) The manager shall appoint all employees of the fund  
15 subject to the civil service law and rules.

16 (5) In conducting the business and affairs of the fund,  
17 the manager may:

18 (a) Enter into contracts of workmen's compensation  
19 insurance and other liability authorized under this Act.

20 (b) Sell annuities covering compensation benefits.

21 (c) Decline to insure any risk in which the mini-  
22 mum requirements of the industrial accident prevention author-  
23 ities with regard to construction, equipment, and operation  
24 are not complied with, or which is beyond the safe carrying of  
25 the fund. Otherwise he shall not refuse to insure any work-  
26 men's compensation risk under state law, tendered with premium  
27 therefor.

28 (d) Reinsure any risk or any part thereof.

29 (e) Cause to be inspected and audited the payrolls

1 of employers applying to the fund for insurance.

2 (f) Make rules for the settlement of claims against  
3 the fund and determine to whom and through whom the payments  
4 of compensation are to be made.

5 (g) Contract with physicians, surgeons, hospitals,  
6 and rehabilitation facilities for medical, surgical, and re-  
7 habilitation treatment and the care and nursing of injured  
8 persons entitled to benefits from the fund.

9 (h) Make safety inspections of risks and furnish  
10 advisory services to employers on safety and health measures.

11 (i) Subject to general supervision by the commis-  
12 sioner, act for the fund in the collection and disbursements  
13 of all moneys necessary for administration of the fund and  
14 the conduct of the business of the fund.

15 (6) Each quarter the manager of the State Compensation  
16 Insurance Fund shall make a report to the governor of the business  
17 done by the State Compensation Insurance Fund during the previous  
18 quarter and a statement of the fund's resources and liabilities at  
19 the close of that previous quarter.

20 Sec. 4. POSTING OF NOTICES. Every employer who has secured  
21 compensation under the provisions of this Act shall post and keep  
22 posted in a conspicuous place or places in and about his place or  
23 places of business a typewritten or printed notice, in accordance  
24 with a form prescribed by the manager, stating that such employer  
25 has secured the payment of compensation in accordance with the  
26 provisions of this Act. Such notice shall contain the name and  
27 address of the carrier, if any, with whom the employer has secur-  
28 ed payment of compensation, and date of expiration of the policy.

29 Sec. 5. CERTIFICATE OF COMPLIANCE. Every employer who shall

1 present satisfactory evidence to the manager that he has secured  
2 the payment of compensation, as provided by the state workmen's  
3 compensation law and regulations thereunder, shall be issued a  
4 certificate of compliance by the manager, stating that the employ-  
5 er has secured the payment of such compensation.

6 Sec. 6. INSURANCE POLICIES. (1) Every policy or contract  
7 for the insurance of compensation and employers' liability herein  
8 provided for shall be deemed to be made subject to the provisions  
9 of this Act and provisions thereof inconsistent with the Act shall  
10 be void. No contract or policy or indorsement thereof to insure  
11 liability under this Act shall be issued except for approval as to  
12 the form and content by the manager.

13 (2) Unless the manager has specifically authorized the  
14 issuance of a separate policy covering a specified plant or work  
15 location or operation of an employer, any insurer insuring the  
16 liability of an employer under this Act shall be deemed to be the  
17 insurer for all employees of the employer within the protection of  
18 the state workmen's compensation act.

19 (3) Every policy or contract of insurance issued under  
20 authority of this Act shall contain (1) a provision to carry out  
21 the provisions of subsection (b) and (2) a provision that insolv-  
22 ency or bankruptcy of the employer or discharge therein or both  
23 shall not relieve the carrier from payment of compensation for dis-  
24 ability or death sustained by an employee during the life of such  
25 policy or contract.

26 (4) Every such policy or contract of insurance between  
27 an employer and an insurer, issued under authority of this Act,  
28 shall be a contract of insurance for the benefit of any employee  
29 of the insured entitled to compensation benefits under the policy

1 or contract, or in the event of an injury to an employee resulting  
2 in death, for the benefit of the dependents of such employee.  
3 Every such policy or contract shall contain an agreement by the  
4 insurer to the effect that the insurer shall also be directly and  
5 primarily liable to the employee and, in the event of his death,  
6 to his dependents, or to any person entitled to funeral expenses,  
7 or other payment for services rendered consistent with the purposes  
8 of this Act or related acts, to pay to him or to them the compen-  
9 sation for which the employer is liable. The obligations of the  
10 insurance carrier shall be enforceable by any person entitled to  
11 a payment assumed under the policy, whether or not the carrier is  
12 proceeded against jointly with the employer.

13 (5) As between any such injured employee or his de-  
14 pendents and the insurer, no question as to breach of warranty or  
15 misrepresentation by the insured shall be raised by the insurer in  
16 any proceedings before the commissioner of labor or in any appeal  
17 therefrom.

18 (6) No statement in an application for a policy of  
19 workmen's compensation insurance shall vitiate such policy as be-  
20 tween insurer and insured unless such statement shall be false  
21 and should materially have affected the acceptance of the risk if  
22 known by the insured. In no case shall the holding of such policy  
23 vitiated between insurer and insured affect the carrier's obliga-  
24 tion to pay compensation and to discharge other obligations under  
25 the policy. The carrier shall have right of action over any  
26 amounts liable under the policy of insurance.

27 (7) Any employer who shall wilfully misrepresent the  
28 amount of the payroll upon which his premium under this Act is to  
29 be based or under the state workmen's compensation act shall be

1 liable to the fund in ten times the amount of the difference in  
2 premium paid and the amount the employer should have paid for his  
3 payroll been correctly computed, and the liability to the fund  
4 under this section shall be enforced as an action for debt brought  
5 by the fund.

6       Sec. 7. EFFECTIVE DATE. This Act shall take effect immed-  
7 iately upon its passage and approval or upon becoming law without  
8 such approval.

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