

BY SENATORS OWEN, MCNABB
AND HOPSON

1 IN THE SENATE

2 SENATE BILL NO. 80

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a non-profit exclusive
7 state compensation insurance fund; and pro-
8 viding 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
14 employers against liability for injuries sustained by their em-
15 ployees in the course of employment and of insuring to employees
16 and other persons the compensation and benefits provided in the
17 state workmen's compensation law for employees and their depend-
18 ents.

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

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

29 (4) The fund may also insure an employer against his

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1 liability for damages arising out of injury to or death of his
2 employees, as fully as any other insurer.

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

5 (a) Such specific appropriations as the legis-
6 lature from time to time makes or sets aside for the use of
7 the fund.

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

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

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

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

26 (7) The actual loss experience and expense of the fund
27 shall be ascertained on or about the first of July in each year
28 for the calendar year preceding. If it is then shown that there
29 exists an excess of assets over liabilities, necessary reserves,

1 and a reasonable surplus for the catastrophe hazard, then a cash
2 dividend may be declared to, or credit allowed on the renewal
3 premium of each employer who has been insured with the fund.
4 Such cash dividend or credit is to be in an amount which the com-
5 missioner in his discretion considers to be the employer's pro-
6 portion of divisible surplus.

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

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

15 (10) The state treasurer shall be the custodian of all
16 moneys and securities belonging to the State Compensation Insur-
17 ance Fund except as provided in this section. He shall be liable
18 on his official bond for their safekeeping.

19 (11) All moneys which belong to the fund and are
20 collected or received under this chapter shall be delivered to
21 the state treasurer or deposited to his credit in such bank or
22 banks throughout the state as he designates, but such moneys are
23 not state moneys.

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

27 (13) Upon such delivery or deposit, such moneys and
28 securities shall be credited by the state treasurer to the fund.
29 No moneys received or collected on account of the fund shall be

1 expended or paid out without first passing into the state
2 treasury and being drawn therefrom as provided in this chapter.

3 (14) The state treasurer shall keep a special ledger
4 account showing all of the assets pertaining to the State Com-
5 pensation Insurance Fund. In the state treasurer's general
6 ledger this account may appear as a cash account, like other
7 accounts of funds in the state treasury, and only the actual cash
8 coming into the State Compensation Insurance Fund shall be enter-
9 ed in the account.

10 (15) Expenditures made from the revolving fund in pay-
11 ments made in connection with the insurance business transacted
12 by the State Compensation Insurance Fund are exempted from the
13 restrictions imposed upon the expenditures of state moneys. Re-
14 imbursement of the revolving fund for such expenditures shall be
15 made upon presentation to the state treasurer of an abstract or
16 statement of such expenditures. Such abstract shall be in the
17 form required by the treasurer.

18 (16) The commissioner shall cause all moneys in the .
19 State Compensation Insurance Fund which are in excess of current
20 requirements to be invested and reinvested, from time to time, in
21 securities authorized by law for the investment of funds of sav-
22 ings banks.

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

1 (18) During the months of January and July of each
2 year, the commissioner shall cause a valuation to be made of the
3 properties and securities acquired and held for the State Com-
4 pensation Insurance Fund and shall report the results of the
5 valuation to the governor and state insurance commissioner.

6 (19) All business and affairs of the fund including
7 any litigation shall be conducted in the name of the State Com-
8 pensation Insurance Fund, and in that name, without any other
9 name or title, the commissioner or manager of the State Fund may
10 perform the acts authorized by this section.

11 (20) The State Compensation Insurance Fund may:

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

20 (b) Enter into any contracts or obligations re-
21 lating to the fund which are authorized or permitted by law.

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

24 (d) Conduct all business and affairs and perform
25 all acts relating to the fund whether or not specifically
26 designated in this section.

27 (21) The statistical and actuarial data compiled by
28 the State Compensation Insurance Fund shall at all times be avail-
29 able to the insurance commissioner for his use in judging the

1 adequacy or inadequacy of rates and schedules filed by other
2 carriers. The manager of the fund shall make to the insurance
3 commissioner, all reports required by law to be made to him by
4 other insurers.

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

6 (1) The State Compensation Insurance Fund shall be administered
7 by the State Compensation Insurance Fund Commissioner hereinafter
8 called the "commissioner."

9 (2) The commissioner shall be appointed by the gover-
10 nor and serve at his pleasure.

11 (3) The commissioner is hereby vested with full power,
12 authority, and jurisdiction over the State Compensation Insurance
13 Fund. The commissioner may perform all acts necessary or con-
14 venient in the exercise of any power, authority or jurisdiction
15 over the fund, either in the administration thereof or in con-
16 nection with the insurance business to be carried on by him under
17 the provisions of this section, as fully and completely as the
18 governing body of a private insurance carrier.

19 (4) The commissioner shall have the authority to adopt
20 rules and regulations relating to the conduct of the business of
21 the fund.

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

28 Sec. 3. MANAGER OF STATE COMPENSATION INSURANCE FUND. (1)

29 The commissioner shall appoint a manager of the fund and fix his

1 salary. The manager shall manage and conduct the business and
2 affairs of the fund under the general direction and subject to
3 the approval of the commissioner and shall perform such other
4 duties as the commissioner prescribes.

5 (2) Before entering on the duties of his office, the
6 manager shall qualify by giving an official bond approved by the
7 commissioner, in the sum of twenty thousand dollars (\$20,000.00)
8 and by taking and subscribing to an official oath. The approval
9 of the commissioner shall be by written endorsement on the bond.
10 The bond shall be filed in the office of the secretary of state.

11 (3) The commissioner may delegate to the manager of
12 the fund, under such rules and regulations and subject to such
13 conditions as he may from time to time prescribe, any power,
14 function or duty conferred by law on the commissioner in connec-
15 tion with the fund or in connection with the administration,
16 management and conduct of the business and affairs of the fund.
17 The manager may exercise such powers and functions and perform
18 such duties with the same force and effect as the commissioner,
19 but subject to his approval.

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

22 (5) In conducting the business and affairs of the fund,
23 the manager may:

24 (a) Enter into contracts of workmen's compensa-
25 tion insurance and other liability authorized under this
26 Act.

27 (b) Sell annuities covering compensation benefits.

28 (c) Decline to insure any risk in which the mini-
29 mum requirements of the industrial accident prevention

1 authorities with regard to construction, equipment, and
2 operation are not complied with, or which is beyond the safe
3 carrying of the fund. Otherwise he shall not refuse to
4 insure any workmen's compensation risk under state law,
5 tendered with premium therefor.

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

7 (e) Cause to be inspected and audited the payrolls
8 of employers applying to the fund for insurance.

9 (f) Make rules for the settlement of claims
10 against the fund and determine to whom and through whom the
11 payments of compensation are to be made.

12 (g) Contract with physicians, surgeons, hospitals,
13 and rehabilitation facilities for medical, surgical, and
14 rehabilitation treatment and the care and nursing of injured
15 persons entitled to benefits from the fund.

16 (h) Make safety inspections of risks and furnish
17 advisory services to employers on safety and health
18 measures.

19 (i) Subject to general supervision by the com-
20 missioner, act for the fund in the collection and disburse-
21 ments of all moneys necessary for administration of the fund
22 and the conduct of the business of the fund.

23 (6) Each quarter the manager of the State Compensation
24 Insurance Fund shall make a report to the governor of the business
25 done by the State Compensation Insurance Fund during the previous
26 quarter and a statement of the fund's resources and liabilities
27 at the close of that previous quarter.

28 Sec. 4. POSTING OF NOTICES. Every employer who has secured
29 compensation under the provisions of this Act shall post and keep

1 posted in a conspicuous place or places in and about his place or
2 places of business a typewritten or printed notice, in accordance
3 with a form prescribed by the manager, stating that such employer
4 has secured the payment of compensation in accordance with the
5 provisions of this Act. Such notice shall contain the name and
6 address of the carrier, if any, with whom the employer has
7 secured payment of compensation, and date of expiration of the
8 policy.

9 Sec. 5. CERTIFICATE OF COMPLIANCE. Every employer who shall
10 present satisfactory evidence to the manager that he has secured
11 the payment of compensation, as provided by the state workmen's
12 compensation law and regulations thereunder, shall be issued a
13 certificate of compliance by the manager, stating that the employ-
14 er has secured the payment of such compensation.

15 Sec. 6. INSURANCE POLICIES. (1) Every policy or contract
16 for the insurance of compensation and employers' liability herein
17 provided for shall be deemed to be made subject to the provisions
18 of this Act and provisions thereof inconsistent with the Act shall
19 be void. No contract or policy or indorsement thereof to insure
20 liability under this Act shall be issued except for approval as to
21 the form and content by the manager.

22 (2) Unless the manager has specifically authorized the
23 issuance of a separate policy covering a specified plant or work
24 location or operation of an employer, any insurer insuring the
25 liability of an employer under this Act shall be deemed to be the
26 insurer for all employees of the employer within the protection of
27 the state workmen's compensation act.

28 (3) Every policy or contract of insurance issued under
29 authority of this Act shall contain (1) a provision to carry out

1 the provisions of subsection (b) and (2) a provision that insolv-
2 ency or bankruptcy of the employer or discharge therein or both
3 shall not relieve the carrier from payment of compensation for
4 disability or death sustained by an employee during the life of
5 such policy or contract.

6 (4) Every such policy or contract of insurance between
7 an employer and an insurer, issued under authority of this Act,
8 shall be a contract of insurance for the benefit of any employee
9 of the insured entitled to compensation benefits under the policy
10 or contract, or in the event of an injury to an employee result-
11 ing in death, for the benefit of the dependents of such employee.
12 Every such policy or contract shall contain an agreement by the
13 insurer to the effect that the insurer shall also be directly and
14 primarily liable to the employee and, in the event of his death,
15 to his dependents, or to any person entitled to funeral expenses,
16 or other payment for services rendered consistent with the
17 purposes of this Act or related acts, to pay to him or to them
18 the compensation for which the employer is liable. The obliga-
19 tions of the insurance carrier shall be enforceable by any person
20 entitled to a payment assumed under the policy, whether or not
21 the carrier is proceeded against jointly with the employer.

22 (5) As between any such injured employee or his de-
23 pendents and the insurer, no question as to breach of warranty or
24 misrepresentation by the insured shall be raised by the insurer
25 in any proceedings before the commissioner of labor or in any
26 appeal therefrom.

27 (6) No statement in an application for a policy of
28 workmen's compensation insurance shall vitiate such policy as be-
29 tween insurer and insured unless such statement shall be false

1 and should materially have affected the acceptance of the risk if
2 known by the insured. In no case shall the holding of such
3 policy vitiated between insurer and insured affect the carrier's
4 obligation to pay compensation and to discharge other obligations
5 under the policy. The carrier shall have right of action over
6 any amounts liable under the policy of insurance.

7 (7) Any employer who shall wilfully misrepresent the
8 amount of the payroll upon which his premium under this Act is to
9 be based or under the state workmen's compensation act shall be
10 liable to the fund in ten times the amount of the difference in
11 premium paid and the amount the employer should have paid if his
12 payroll had been correctly computed, and the liability to the
13 fund under this section shall be enforced as an action for debt
14 brought by the fund.

15 Sec. 7. EFFECTIVE DATE. This Act takes effect on the day
16 after its passage and approval or on the day it becomes law with-
17 out such approval.

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