

IN THE SENATE

SENATE BILL NO. 1252

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-301, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SECURITY FOR PAYMENT OF COMPENSATION; AND AMENDING CHAPTER 3, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-301A, IDAHO CODE, TO PROVIDE ALTERNATIVE SECURITY REQUIREMENTS FOR CERTAIN SELF-INSURED EMPLOYERS UNDER THE STATE WORKER'S COMPENSATION LAWS AND TO PROVIDE FOR RULES BY THE INDUSTRIAL COMMISSION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 72-301, Idaho Code, be, and the same is hereby amended to read as follows:

72-301. SECURITY FOR PAYMENT OF COMPENSATION. (1) Every employer shall secure the payment of compensation under this law in one (1) of the following ways:

(1a) By insuring and keeping insured with a policy of worker's compensation insurance as defined in section 41-506(d), Idaho Code, the payment of compensation with any insurer, as defined in section 41-103, Idaho Code, authorized by the director of the department of insurance to transact such insurance, provided, that every public employer shall insure its liability for payment of compensation with the state insurance fund unless such fund shall refuse to accept the risk when the application for insurance is made; or

(2b) An employer may become self-insured by obtaining the approval of the industrial commission, and by depositing and maintaining in a custodial account with the ~~commission~~ state treasurer money or acceptable security instruments satisfactory to the commission securing the payment by said employer of compensation according to the terms of this law. Such acceptable security ~~may consist of~~ instruments are bonds, treasury bills, interest-bearing notes or other obligations of the United States for which the full faith and credit of the United States is pledged for the payment of principal and interest. In lieu of such money or security instruments, the commission may allow or require such employer to file or maintain with the state treasurer a surety bond or guaranty contract with any company authorized to transact surety insurance in Idaho. The commission shall adopt rules governing the qualifications of self-insured employers, the nature and amount of security to be deposited and maintained with the ~~commission~~ state treasurer, and the conditions under which an employer may continue to be self-insured.

(2) No insurer shall be permitted to transact worker's compensation insurance covering the liability of employers under this law unless it shall have been authorized to do business under the laws of this state and until it shall have received the approval of the commission. To the end that the workers secured under this law shall be adequately protected, the commis-

1 sion shall require such insurer to deposit and maintain in a custodial ac-
 2 count with the state treasurer of the state money or bonds acceptable secu-
 3 rity instruments of the United States or of this state, or interest-paying
 4 bonds when they are at or above par, or any other state of the United States
 5 or the District of Columbia, or the bonds of any county or municipal corpo-
 6 ration of this or any other state of the United States or the District of Co-
 7 lumbia in an amount equal to the total amounts of all outstanding and unpaid
 8 compensation awards against such insurer. Acceptable security instruments
 9 are bonds, treasury bills, interest-bearing notes or other obligations of
 10 the United States for which the full faith and credit of the United States is
 11 pledged for the payment of principal and interest. In lieu of such money or
 12 bonds security instruments, the commission may allow or require such insurer
 13 to file or maintain with the state treasurer of the state a surety bond of
 14 some company or companies authorized to do business in this state for and in
 15 the amounts equaling the total unpaid compensation awards against such in-
 16 surer.

17 (3) When an insurer has been placed in liquidation, any security being
 18 held in a custodial account with the state treasurer under this section shall
 19 be converted into cash and transferred into the insolvent insurer fund cre-
 20 ated in subsection (4) of this section. Such funds shall continue to be held
 21 for the purpose of securing any future claims made against the insolvent in-
 22 surer under this law or until released by the commission to the liquidator,
 23 if one exists, or to the insurer's state of domicile, as provided herein.
 24 Interest earned on moneys deposited in the insolvent insurer fund shall be
 25 credited, pro rata, to the account balance of security being held to answer
 26 claims made under this law against an insolvent insurer. Moneys deposited
 27 in the insolvent insurer fund may be used to pay the reasonable costs or ex-
 28 penditures charged by any financial institution holding such funds on deposit
 29 for the state treasurer. Any balance in funds remaining on deposit in the in-
 30 solvent insurer fund to answer the claims of an insolvent insurer after dis-
 31 charge of that insurer's liquidator may be transferred to the liquidator, if
 32 one still exists, or to the liquidated insurer's state of domicile, at such
 33 time as the commission determines that said security is no longer required to
 34 be held by the state treasurer for the purposes of this law.

35 (4) There is hereby created in the state treasury the insolvent insurer
 36 fund. Moneys in the fund are hereby continuously appropriated for the pur-
 37 poses set forth in the provisions of this section. Interest earned on moneys
 38 in the fund shall be returned to the fund.

39 (5) The approval by the commission of any insurer or self-insured em-
 40 ployer may be withdrawn if it shall appear to the commission that workers se-
 41 cured thereby under this law are not fully protected.

42 SECTION 2. That Chapter 3, Title 72, Idaho Code, be, and the same is
 43 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 44 ignated as Section 72-301A, Idaho Code, and to read as follows:

45 72-301A. ALTERNATIVE MEANS OF SECURING SELF-INSURANCE. The provi-
 46 sions of section 72-301, Idaho Code, with respect to security, shall be met
 47 alternatively under the following. The employer shall demonstrate to the
 48 commission that security for its self-insured worker's compensation pro-
 49 gram is covered by a cost reimbursement contract with the federal government

1 which addresses payment of costs for the employer's worker's compensation
2 program. Self-insured status is to be granted as of the effective date of
3 the qualifying contract or other instrument or as soon thereafter as the
4 employer meets all other applicable commission rules. An employer that
5 becomes self-insured under this section is not required to provide and main-
6 tain a security deposit, is not required to have a payroll history and is
7 not required to have excess insurance coverage. In addition, because of the
8 federal government reimbursement, the employer's self-insurance program
9 includes coverage for claims for events taking place before the effective
10 date of the self-insured program, and no separate coverage or deposit for
11 such claims is required.

12 The commission shall promulgate rules governing the administration of
13 employer self-insurance under this section.