

IN THE SENATE

SENATE BILL NO. 1252, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-301, IDAHO CODE, TO  
2 REVISE PROVISIONS RELATING TO SECURITY FOR PAYMENT OF COMPENSATION; AND  
3 AMENDING CHAPTER 3, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SEC-  
4 TION 72-301A, IDAHO CODE, TO PROVIDE ALTERNATIVE SECURITY REQUIREMENTS  
5 FOR CERTAIN SELF-INSURED EMPLOYERS UNDER THE STATE WORKER'S COMPENSA-  
6 TION LAWS AND TO PROVIDE FOR RULES BY THE INDUSTRIAL COMMISSION.  
7

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

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

11 72-301. SECURITY FOR PAYMENT OF COMPENSATION. (1) Every employer  
12 shall secure the payment of compensation under this law in one (1) of the  
13 following ways:

14 (1a) By insuring and keeping insured with a policy of worker's com-  
15 pensation insurance as defined in section 41-506(d), Idaho Code, the  
16 payment of compensation with any insurer, as defined in section 41-103,  
17 Idaho Code, authorized by the director of the department of insurance to  
18 transact such insurance, provided, that every public employer shall in-  
19 sure its liability for payment of compensation with the state insurance  
20 fund unless such fund shall refuse to accept the risk when the applica-  
21 tion for insurance is made; or

22 (2b) An employer may become self-insured by obtaining the approval  
23 of the industrial commission, and by depositing and maintaining in a  
24 custodial account with the ~~commission~~ state treasurer money or accept-  
25 able security instruments satisfactory to the commission securing the  
26 payment by said employer of compensation according to the terms of this  
27 law. Such acceptable security ~~may consist of~~ instruments are bonds,  
28 treasury bills, interest-bearing notes or other obligations of the  
29 United States for which the full faith and credit of the United States  
30 is pledged for the payment of principal and interest. In lieu of such  
31 money or security instruments, the commission may allow or require such  
32 employer to file or maintain with the state treasurer a surety bond ~~or~~  
33 guaranty contract with any company authorized to transact surety insur-  
34 ance in Idaho. The commission shall adopt rules governing the qualifi-  
35 cations of self-insured employers, the nature and amount of security to  
36 be deposited and maintained with the ~~commission~~ state treasurer, and  
37 the conditions under which an employer may continue to be self-insured.

38 (2) No insurer shall be permitted to transact worker's compensation in-  
39 surance covering the liability of employers under this law unless it shall  
40 have been authorized to do business under the laws of this state and until  
41 it shall have received the approval of the commission. To the end that the  
42 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, by the employer demonstrating to the commission that secu-  
 48 rity for its self-insured worker's compensation program is covered by a cost  
 49 reimbursement contract with the federal government for work performed in

1 connection with the Idaho national laboratory including research, devel-  
2 opment, demonstration, testing, national security, defense, environmental  
3 cleanup or waste management if the cost reimbursement contract provides for  
4 the payment as otherwise required in this chapter. An employer that becomes  
5 self-insured under this section is not required to provide and maintain a se-  
6 curity deposit, is not required to have a payroll history and is not required  
7 to have excess insurance coverage. In addition, because of the federal  
8 government reimbursement, the employer's self-insurance program includes  
9 coverage for claims for events taking place before the effective date of the  
10 self-insured program, and no separate coverage or deposit for such claims is  
11 required.

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