

WORKERS' COMPENSATION FUND

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Kevin S. Garn

This act modifies the Insurance Code by amending when a Workers' Compensation Fund subsidiary may offer insurance coverage. This act also exempts the Workers' Compensation Fund from the Open and Public Meetings provisions.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

31A-33-103.5, as last amended by Chapter 107, Laws of Utah 1998

31A-33-104, as last amended by Chapter 375, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **31A-33-103.5** is amended to read:

31A-33-103.5. Powers of Fund -- Limitations.

(1) The fund may form or acquire subsidiaries or enter into a joint enterprise:

(a) in accordance with Section 31A-33-107; and

(b) except as limited by this section and applicable insurance rules and statutes.

(2) Subject to applicable insurance rules and statutes, the fund may only offer:

(a) workers' compensation insurance in Utah;

(b) workers' compensation insurance in a state other than Utah to the extent necessary to:

(i) accomplish its purpose under Subsection 31A-33-102(1)(b); and

(ii) provide workers' compensation or occupational disease insurance coverage to Utah

employers and their employees engaged in interstate commerce; and

(c) workers' compensation products and services in Utah or other states.

(3) Subject to applicable insurance rules and statutes, a subsidiary of the fund may:

(a) offer workers' compensation insurance coverage only:

(i) in a state other than Utah; and

(ii) (A) to insure the following against liability for compensation based on job-related accidental injuries and occupational diseases[?];

(I) an employer, as defined in Section 34A-2-103, that has a majority of its employees, as defined in Section 34A-2-104, hired or regularly employed in Utah;

(II) an employer, as defined in Section 34A-2-103, whose principal administrative office is located in Utah; ~~or~~

(III) a subsidiary or affiliate of an employer described in Subsection (3)(a)(ii)(A)(I) or (II);
or

(IV) an employer, as defined in Section 34A-2-103, whose purchase of insurance arises solely out of the purchase of workers' compensation products and services from the fund or a fund subsidiary; or

(B) for a state fund organization that is not an admitted insurer in the other state:

(I) on a fee for service basis; and

(II) without bearing any insurance risk; and

(b) offer workers' compensation products and services in Utah and other states.

(4) The fund shall write workers' compensation insurance in accordance with Section 31A-22-1001.

(5) (a) The fund may enter into a joint enterprise that offers workers' compensation insurance and other coverage only in the state, provided:

(i) the joint enterprise offers only property or liability insurance in addition to workers' compensation insurance;

(ii) the fund may not bear any insurance risk associated with the insurance coverage other than risk associated with workers' compensation insurance; and

(iii) the offer of other insurance shall be part of an insurance program that includes workers' compensation insurance coverage that is provided by the fund.

(b) The fund or a subsidiary of the fund may not offer, or enter into a joint enterprise that offers, or otherwise participate in the offering of health or disability insurance.

Section 2. Section **31A-33-104** is amended to read:

31A-33-104. Workers' Compensation Fund exempted.

(1) The Workers' Compensation Fund is exempt from the provisions of:

(a) Title 52, Chapter 4, Open and Public Meetings;

~~[(a)]~~ (b) Title 63, Chapter 2, Government Records Access and Management Act; and

~~[(b)]~~ (c) Title 63A, Utah Administrative Services Code.

(2) The board may specifically exempt the Workers' Compensation Fund from any provisions of:

(a) Title 67, Chapter 19, Utah State Personnel Management Act; and

(b) Title 63, Chapter 56, Utah Procurement Code.

(3) The provisions of Title 63, Chapter 46b, Administrative Procedures Act, do not govern the initial determination of any person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act.