

AMENDMENTS RELATED TO WORKERS' COMPENSATION

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Gerry A. Adair

AN ACT RELATING TO INSURANCE; DEFINING TERMS; AMENDING PROVISIONS RELATED TO THE LEGAL NATURE AND POWERS OF THE WORKERS' COMPENSATION FUND OF UTAH; ADDRESSING ACTIVITIES OF THE FUND AND SUBSIDIARIES; PERMITTING JOINT ENTERPRISES UNDER CERTAIN CIRCUMSTANCES; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

31A-33-101, as renumbered and amended by Chapter 240, Laws of Utah 1996

31A-33-103.5, as enacted by Chapters 204 and 375, Laws of Utah 1997

31A-33-105, as renumbered and amended by Chapter 240, Laws of Utah 1996

31A-33-107, as last amended by Chapter 204, Laws of Utah 1997

31A-33-118, as enacted by Chapter 240, Laws of Utah 1996

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

Section 1. Section **31A-33-101** is amended to read:

31A-33-101. Definitions.

As used in this chapter:

- (1) "Board" means the board of directors of the Workers' Compensation Fund.
- (2) "Chief executive officer" means the chief executive officer appointed by the board.
- (3) "Director" means a member of the board.
- (4) "Fund" and "Workers' Compensation Fund" mean the nonprofit, quasi-public

corporation established by this chapter.

(5) "Injury Fund" means the premiums, reserves, investment income, and any other funds administered by the Workers' Compensation Fund as provided in this chapter.

(6) "Joint enterprise" means a joint business activity either for-profit or not-for-profit:

(a) by which two or more persons provide insurance, products, or services; and

(b) that is established by contract between the persons providing the insurance, products, or services.

(7) "Workers' compensation products and services" means:

(a) medical or lost time claims management;

(b) utilization review;

(c) rehabilitation counseling or training;

(d) fraud detection for workers' compensation claims;

(e) loss prevention or safety consultation; and

(f) data or information reporting or processing involving workers' compensation.

Section 2. 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 [Subsections (2) and (3)] this section and applicable insurance rules and statutes.

(2) ~~[(a)] Subject to applicable insurance rules and statutes, the [Workers' Compensation Fund of Utah, or its subsidiaries,] fund may [offer] only offer:~~

~~(a) workers' compensation insurance [products and services] in Utah [and other states until the Legislature enacts legislation addressing the recommendations of a legislatively authorized study of the fund's authority, if any, to offer insurance products or services other than workers' compensation insurance products or services either directly, through a subsidiary, or through a joint venture.];~~

(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.

~~[(b) A] (3) Subject to applicable insurance rules and statutes, a subsidiary of the [Workers'~~

Compensation Fund of Utah] 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

(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.

~~[(3) There is a moratorium until July 1, 2000, on the Workers' Compensation Fund of Utah's authority, if any, to offer health insurance services including medical, surgical, hospital, and other ancillary medical expenses, by any means including directly, through a subsidiary, or through a joint venture.]~~

(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 3. Section **31A-33-105** is amended to read:

31A-33-105. Price of insurance -- Liability of state.

(1) The Workers' Compensation Fund shall provide workers' compensation insurance at an actuarially sound price, which the board shall determine.

(2) The state:

(a) is not liable for the expenses, liabilities, or debts of:

(i) the Workers' Compensation Fund[;];

(ii) a subsidiary of the fund; or

(iii) a joint enterprise in which the fund participates; and

(b) may not use any assets of the Injury Fund for any purpose.

Section 4. Section **31A-33-107** is amended to read:

31A-33-107. Duties of board -- Creation of subsidiaries -- Entering into joint enterprises.

(1) The board shall:

(a) appoint a chief executive officer to administer the Workers' Compensation Fund;

(b) receive and act upon financial, management, and actuarial reports covering the operations of the Workers' Compensation Fund;

(c) ensure that the Workers' Compensation Fund is administered according to law;

(d) examine and approve an annual operating budget for the Workers' Compensation Fund;

(e) serve as investment trustees and fiduciaries of the Injury Fund;

(f) receive and act upon recommendations of the chief executive officer;

(g) develop broad policy for the long-term operation of the Workers' Compensation Fund, consistent with its mission and fiduciary responsibility;

(h) subject to [~~Sections 31A-19-401 through 31A-19-420;~~] Chapter 19, Part IV, Workers' Compensation Ratemaking, approve any rating plans that would modify a policyholder's premium;

(i) subject to [~~Sections 31A-19-401 through 31A-19-420;~~] Chapter 19, Part IV, Workers' Compensation Ratemaking, approve the amount of deviation, if any, from standard insurance rates;

(j) approve the amount of the dividends, if any, to be returned to policyholders;

(k) adopt a procurement policy consistent with the provisions of Title 63, Chapter 56, Utah Procurement Code;

(l) develop and publish an annual report to policyholders, the governor, the Legislature, and interested parties that describes the financial condition of the Injury Fund, including a statement of expenses and income and what measures were taken or will be necessary to keep the Injury Fund actuarially sound;

(m) establish a fiscal year;

(n) determine and establish an actuarially sound price for insurance offered by the fund;

(o) establish conflict of interest requirements that govern the board, officers, and employees;

and

(p) perform all other acts necessary for the policymaking and oversight of the Workers' Compensation Fund.

(2) Subject to board review and its responsibilities under Subsection (1)(e), the board may delegate authority to make daily investment decisions.

(3) The fund may form or acquire a subsidiary [~~under Section 31A-33-103.5~~] or enter into a joint enterprise:

(a) only if that action is approved by the board; and

(b) subject to the limitations in Section 31A-33-103.5.

Section 5. Section **31A-33-118** is amended to read:

31A-33-118. Scope of chapter.

The placement of this chapter in this title may not be construed to[~~:(1)~~] change the Workers' Compensation Fund's legal nature or purpose as set forth in this chapter[~~;~~or].

[~~(2) change the Workers' Compensation Fund's obligation to write workers' compensation insurance pursuant to Section 31A-22-1001.~~]