

Senator Curtis S. Bramble proposes the following substitute bill:

WORKERS' COMPENSATION FUND AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies the Insurance Code to address the Workers' Compensation Fund.

Highlighted Provisions:

This bill:

- ▶ modifies ~~H~~→ [the] ←~~H~~ definitions;
- ▶ addresses the powers of the fund and its subsidiaries;
- ▶ changes the method by which board members are selected;
- ▶ removes references to the Governor's Office of Economic Development;
- ▶ addresses compensation of board members; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-33-101, as last amended by Laws of Utah 2000, Chapter 222

31A-33-103.5, as last amended by Laws of Utah 2001, Chapters 33 and 116

1st Sub. S.B. 63



26 31A-33-106, as last amended by Laws of Utah 2007, Chapter 74

26a ~~H~~→ 31A-33-107, as last amended by Laws of Utah 2012, Chapter 347 ←~~H~~



27
28 *Be it enacted by the Legislature of the state of Utah:*

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

30 **31A-33-101. Definitions.**

31 As used in this chapter:

- 32 (1) "Board" means the board of directors of the Workers' Compensation Fund.
- 33 (2) "Chief executive officer" means the chief executive officer appointed by the board.
- 34 (3) "Director" means a member of the board.
- 35 (4) "Fund" and "Workers' Compensation Fund" mean the nonprofit, quasi-public
- 36 corporation established by this chapter.

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

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

- 40 (a) by which two or more persons provide insurance, products, or services; and
- 41 (b) that is established by contract between the persons providing the insurance,
- 42 products, or services.

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

- 44 (i) medical or lost time claims management;
- 45 (ii) utilization review;
- 46 (iii) rehabilitation counseling or training;
- 47 (iv) fraud detection for workers' compensation claims;
- 48 (v) loss prevention or safety consultation;
- 49 (vi) data or information reporting or processing involving workers' compensation;

50 [~~and~~]

51 (vii) services related to improved employment practices, procedures, and data security;

52 and

53 [~~(vii)~~] (viii) liability insurance claims management if the claims management is related
54 to or arising out of:

55 (A) the sale of workers' compensation products and services described in Subsections
56 (7)(a)(i) through [~~(vi)~~] (vii) by:

212 described in Subsection ~~[(18)]~~ (17)(a)(i)(B) is the sum of the amount under this Subsection
 213 ~~[(18)]~~ (17)(a) for the previous year and an amount equal to the greater of:

214 (I) an amount calculated by multiplying the amount under this Subsection ~~[(18)]~~
 215 (17)(a) for the previous year by the actual percent change during the previous calendar year in
 216 the consumer price index; and

217 (II) 0.

218 (C) For purposes of this Subsection ~~[(18)]~~ (17), the consumer price index shall be
 219 calculated as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

220 (b) Directors may decline to receive compensation and expenses for their service.

221 (c) The Worker's Compensation Fund shall pay compensation to and reimburse
 222 reasonable expenses of directors as permitted by this section:

223 (i) from the Injury Fund; and

224 (ii) upon vouchers drawn in the same manner as the Workers' Compensation Fund pays
 225 its normal operating expenses.

226 (d) The ~~[following]~~ chief executive ~~H~~→ [office] officer ←~~H~~ of the
 226a Workers' Compensation Fund shall

227 serve on the board without payment of compensation, but may be reimbursed for reasonable
 228 expenses in accordance with Subsection ~~[(18)]~~ (17)(a)[:].

229 ~~[(i) the executive director of the Department of Administrative Services, or the
 230 executive director's designee;]~~

231 ~~[(ii) the chief executive officer of the Workers' Compensation Fund; and]~~

232 ~~[(iii) the director of the Governor's Office of Economic Development if appointed
 233 under Subsection (8).]~~

234 (e) The Workers' Compensation Fund shall annually report to the commissioner
 235 compensation and expenses paid to the directors on the board.

236 ~~[(19) The requirement that the governor, with the consent of the Senate, appoint the
 237 directors of the Workers' Compensation Fund specified in Subsection (5) or (8), does not:]~~

238 (18) The placement of this chapter in this title does not:

239 (a) remove from the board of directors the managerial, financial, or operational control
 240 of the Workers' Compensation Fund;

241 (b) give to the state or the governor managerial, financial, or operational control of the
 242 Workers' Compensation Fund;

- 243 (c) consistent with Section 31A-33-105, cause the state to be liable for any:
- 244 (i) obligation of the Workers' Compensation Fund; or
- 245 (ii) expense, liability, or debt described in Section 31A-33-105;
- 246 (d) alter the legal status of the Workers' Compensation Fund as:
- 247 (i) a nonprofit, self-supporting, quasi-public corporation; and
- 248 (ii) an insurer:
- 249 (A) regulated under this title;
- 250 (B) that is structured to operate in perpetuity; and
- 251 (C) domiciled in the state; or
- 252 (e) alter the requirement that the Workers' Compensation Fund provide workers'
- 253 compensation:
- 254 (i) for the purposes set forth in Section 31A-33-102;
- 255 (ii) consistent with Section 34A-2-201; and
- 256 (iii) as provided in Section 31A-22-1001.

256a **H→ Section 4. Section 31A-33-107 is amended to read:**

256b **31A-33-107. Duties of board -- Creation of subsidiaries -- Entering into joint enterprises.**

256c **(1) The board shall:**

256d **(a) appoint a chief executive officer to administer the Workers' Compensation Fund;**

256e **(b) receive and act upon financial, management, and actuarial reports covering the operations**

256f **of the Workers' Compensation Fund;**

256g **(c) ensure that the Workers' Compensation Fund is administered according to law;**

256h **(d) examine and approve an annual operating budget for the Workers' Compensation Fund;**

256i **(e) serve as investment trustees and fiduciaries of the Injury Fund;**

256j **(f) receive and act upon recommendations of the chief executive officer;**

256k **(g) develop broad policy for the long-term operation of the Workers' Compensation Fund,**

256l **consistent with its mission and fiduciary responsibility;**

256m **(h) subject to Chapter 19a, Part 4, Workers' Compensation Rates, approve any rating plans**

256n **that would modify a policyholder's premium;**

256o **(i) subject to Chapter 19a, Part 4, Workers' Compensation Rates, approve the amount of**

256p **deviation, if any, from standard insurance rates;**

256q **(j) approve the amount of the dividends, if any, to be returned to policyholders;**

256r **(k) adopt a procurement policy consistent with the provisions of Title 63G, Chapter 6a, Utah**

256s **Procurement Code;**

256t **(l) develop and publish an annual report to policyholders, the governor, the Legislature, and**

256u **interested parties that describes the financial condition of the Injury Fund, including a statement of**

256v **expenses and income and what measures were taken or will be necessary to keep the Injury** ☺

256w **☛ Fund actuarially sound;**
256x **(m) establish a fiscal year;**
256y **(n) determine and establish an actuarially sound price for insurance offered by the fund;**
256z **(o) establish conflict of interest requirements that govern the board, officers, and employees;**
256aa **(p) establish compensation and reasonable expenses to be paid to directors on the board**
256ab **subject to the requirements of Section 31A-33-106, so that the board may not approve compensation**
256ac **that exceeds the amount described in Subsection 31A-33-106 ~~[(18)] (17)~~ (a)(i)(B); and**
256ad **(q) perform all other acts necessary for the policymaking and oversight of the Workers'**
256ae **Compensation Fund.**
256af **(2) Subject to board review and its responsibilities under Subsection (1)(e), the board may**
256ag **delegate authority to make daily investment decisions.**
256ah **(3) The fund may form or acquire a subsidiary or enter into a joint enterprise:**
256ai **(a) only if that action is approved by the board; and**
256aj **(b) subject to the limitations in Section 31A-33-103.5. ←H**
257 Section **H→ [4] 5 ←H** . Effective date.
258 This bill takes effect on May 12, 2015, except that the amendments to
258a **H→ [Section] Sections ←H**
259 31A-33-106 **H→** and 31A-33-107 ←H in this bill take effect on January 1, 2016.