

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1001

H. P. 834

House of Representatives, February 25, 1981

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Brannigan of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Establishing the Bonding and Excess Insurance Requirements for Self-insuring Workers' Compensation Employers.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 39 MRSA § 23, sub-§ 2, as last amended by PL 1979, c. 577, § 1, is further amended to read:

2. **Proof of ability to pay.** By furnishing satisfactory proof to the Superintendent of Insurance of his solvency and financial ability to pay the compensation and benefits, and deposit cash, satisfactory securities or a security bond, with the Workers' Compensation Commission ~~in such sum as the superintendent may determine~~; such bond to run to the Treasurer of State and his successor in office, and to be conditional upon the faithful performance of this Act relating to the payment of compensation and benefits to any injured employee. In case of cash being deposited, it shall be placed at interest by the Treasurer of State, and the accumulation of interest on ~~said~~ the cash or securities so deposited shall be paid to the employer depositing the same. The superintendent may at any time in ~~its~~ his discretion deny to an employer the right to continue in the exercise of option granted by this section.

Sec. 2. 39 MRSA § 23, sub-§ 2, as last amended by PL 1979, c. 577, § 1, is further amended by adding at the end a new paragraph to read:

The bond or security deposit required by this subsection shall be determined in the following manner.

A. The bond or security deposit required of a self-insurer with a net worth in excess of \$25,000,000 is \$50,000.

B. The bond or security deposit required of other self-insurers is:

(1) \$50,000, or the amount determined by subparagraph (2), whichever is greater; and

(2) The bond or security deposit shall equal 60% of the current annual standard premium plus outstanding self-insured workers' compensation liabilities less recoveries from all excess carriers and subrogation reduced to net collections less net current assets. If the self-insurer retains an aggregate excess insurance policy, the retention, if less, shall be substituted for the 60% of current annual standard premium in the formula.

Sec. 3. 39 MRSA § 23, sub-§ 2-A, first paragraph, as amended by PL 1979, c. 577, § 2, is repealed and the following enacted in its place:

Except for the manner in which the bond or security deposit is determined, subsection 2 which applies to individual self-insurer, is equally applicable in all respects to group self-insurers. The bond or security deposit required of a group self-insurer is \$50,000 or an amount equal to the sum of the unfunded net safety factors for all open fund years plus any contingent liability, whichever is greater. As used in this subsection "net safety factors" means any amount needed in a given fund year in addition to current loss reserves to fund future loss development and "contingent liability" means an unfunded amount that a group self-insurer may be obligated to pay in excess of the fund year's total loss fund. Any employer or group of employers desiring to become a self-insurer shall submit to the Superintendent of Insurance with an application for self-insurance, in a form prescribed by the superintendent the following:

Sec. 4. 39 MRSA § 23, sub-§ 2-B is enacted to read:

2-B. Excess insurance. Notwithstanding any other provisions of this section:

A. No aggregate excess insurance may be required of individual self-insurers with a net worth in excess of \$25,000,000;

B. No specific or aggregate excess insurance may be required of the State, the University of Maine, counties, cities, towns, water districts, community school districts, school administrative districts and all other quasi-municipal corporations and school administrative units of a similar nature, provided they have a net worth in excess of \$25,000,000;

C. Each group self-insurer shall maintain specific excess insurance with a limit of at least \$2,000,000. Group self-insurers composed of businesses with a high risk of multiple injury from a single occurrence may be required by the

bureau to maintain higher limits. The retention of the required specific excess coverage shall be the lowest retention generally available for self-insurers' funds with similar exposures and annual premium, but may at the superintendent's discretion, be established at higher levels consistent with the employers' claims experience and financial condition; and

D. A group self-insurer shall maintain aggregate excess insurance unless a security deposit acceptable to the superintendent is posted or unencumbered surplus in an amount acceptable to the superintendent is held by the fund.

STATEMENT OF FACT

This bill would establish the bond or security deposit requirements and excess insurance requirements for self-insuring workers' compensation employees and groups. It recognizes the distinction between public employers, who have the direct or indirect power to tax, and private employers, a distinction recognized in other states. Finally, it takes into consideration the ability of an employer with a net worth of more than \$25,000,000 to meet his workers' compensation obligations.