

SENATE BILL 881

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2000 Regular Session
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CF 0lr0196

By: **Senator Bromwell**
Introduced and read first time: February 29, 2000
Assigned to: Rules
Re-referred to: Finance, March 2, 2000

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 27, 2000

CHAPTER _____

1 AN ACT concerning

2 **Injured Workers' Insurance Fund**

3 FOR the purpose of requiring the Injured Workers' Insurance Fund (Fund) to be a
4 member of the Property and Casualty Insurance Guaranty Corporation;
5 increasing the number of members on the Board for the Fund; increasing the
6 number of Board members that must concur for the Board to act; requiring the
7 Maryland Insurance Commissioner to examine the Injured Workers' Insurance
8 Fund in accordance with provisions of the Insurance Article relating to the
9 examination of an insurer's affairs, transactions, accounts, records, and assets;
10 requiring the Commissioner to submit a final report of any examination to the
11 Governor and the Legislative Policy Committee of the General Assembly;
12 altering provisions relating to the investment of excess moneys in the Fund;
13 repealing provisions making the State Treasurer the custodian of the Fund and
14 governing how the State Treasurer disburses money from the Fund; requiring
15 the Insurance Commissioner to ensure that the Fund meets certain solvency
16 standards before the Fund may become a member of a certain corporation;
17 providing that certain member insurers of a certain corporation are obligated
18 only for liabilities arising from certain claims filed against the Fund; providing
19 that the Fund is obligated as a member of a certain corporation only for
20 liabilities arising from certain claims filed against certain member insurers;
21 defining certain terms; and generally relating to the Injured Workers' Insurance
22 Fund.

23 BY repealing and reenacting, with amendments,
24 Article - Labor and Employment
25 Section 10-101, 10-105, 10-110, 10-112, 10-118, 10-122, and 10-125
26 Annotated Code of Maryland

1 (1999 Replacement Volume)

2 BY repealing

3 Article - Labor and Employment

4 Section 10-119 and 10-124

5 Annotated Code of Maryland

6 (1999 Replacement Volume)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Labor and Employment**

10 10-101.

11 (a) In this subtitle the following words have the meanings indicated.

12 (B) "ADMINISTRATION" MEANS THE MARYLAND INSURANCE
13 ADMINISTRATION.

14 [(b)] (C) "Board" means the Board for the Injured Workers' Insurance Fund.

15 (D) "COMMISSIONER" MEANS THE MARYLAND INSURANCE COMMISSIONER.

16 [(c)] (E) "Fund" means the Injured Workers' Insurance Fund.

17 [(d)] (F) "Policyholder" means an employer who holds a policy of insurance
18 under this subtitle.

19 [(e)] (G) (1) "Wage" means all earnings that are due to an employee for
20 employment.

21 (2) "Wage" includes:

22 (i) a bonus;

23 (ii) overtime pay;

24 (iii) a share of profits; and

25 (iv) if, at the time of hiring, an employer and employee set a dollar
26 value for board or a similar advantage, the advantage.

27 10-105.

28 (a) The Fund is independent of all State units.

29 (b) (1) Except as provided in paragraph (2) of this subsection and elsewhere
30 in this subtitle, the Fund is not subject to any law, including § 6-106 of the State
31 Government Article, that affects governmental units.

1 (2) The Fund is subject to:

2 (i) Title 10, Subtitle 5 of the State Government Article;

3 (ii) Title 10, Subtitle 6, Part III of the State Government Article;

4 (iii) Title 12 of the State Government Article;

5 (iv) the Maryland Public Ethics Law; and

6 (v) Title 5, Subtitle 3 of the State Personnel and Pensions Article.

7 (3) Paragraph (1) of this subsection does not affect the exemption from
8 property tax under § 7-210 of the Tax - Property Article.

9 (C) THE FUND IS A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE
10 GUARANTY CORPORATION.

11 10-110.

12 (a) The Board consists of [7] 9 members appointed by the Governor with the
13 advice and consent of the Senate.

14 (b) Each member shall be a citizen of the State.

15 (c) Before taking office, each appointee to the Board shall take the oath
16 required by Article I, § 9 of the Maryland Constitution.

17 (d) (1) The term of a member is 5 years.

18 (2) The terms of members are staggered as required by the terms
19 provided for members of the Board on October 1, 1991.

20 (3) At the end of a term, a member continues to serve until a successor is
21 appointed and qualifies.

22 (4) A member who is appointed after a term has begun serves only for
23 the rest of the term and until a successor is appointed and qualifies.

24 (e) The Governor may remove a member for incompetence or misconduct.

25 10-112.

26 (a) The Board may not act on any matter unless at least [4] 5 members
27 concur.

28 (b) Each member of the Board shall devote the time needed to carry out the
29 duties of office.

30 (c) The Board shall determine the times and places of its meetings.

1 (d) (1) Each member of the Board is entitled to:
2 (i) the salary provided in the budget of the Board; and
3 (ii) reimbursement for expenses under the Standard State Travel
4 Regulations, as provided in the budget of the Board.

5 (2) Each member of the Board shall be paid semimonthly.

6 10-118.

7 (a) The Fund shall consist of:

8 (1) premiums for insurance that the Fund issues;

9 (2) income from investments [that the State Treasurer makes for the
10 Fund] under § 10-122 of this subtitle;

11 (3) interests on deposits or investments of money from the Fund; and

12 (4) the money that the Attorney General collects under § 10-133(c) of
13 this subtitle on debts.

14 (b) The Fund shall include each security or other property that is acquired
15 with money of the Fund.

16 (c) The Board shall use the Fund to pay all of the expenses under this subtitle,
17 including losses on insurance that the Fund issues.

18 [10-119.

19 (a) The State Treasurer is custodian of the Fund.

20 (b) The State Treasurer shall keep the Fund separate from State money.]

21 10-122.

22 [(a)] If, at any time, the amount of money in the Fund exceeds the amount that
23 the Board considers necessary for immediate use, the [State Treasurer] EXCESS shall
24 BE[:

25 (1) invest the excess] INVESTED in any investment authorized under
26 Title 5, Subtitle 6 of the Insurance Article for insurance companies[; or

27 (2) deposit the excess in accordance with the laws that govern deposit of
28 State money.

29 (b) If the Board considers it expedient or necessary to use money invested
30 under subsection (a)(1) of this section, the State Treasurer shall collect, sell, or
31 otherwise realize an investment].

1 [10-124.

2 The State Treasurer shall disburse money from the Fund only on a voucher that
3 is signed by:

4 (1) the Chairman or Vice Chairman of the Board; and

5 (2) the President of the Fund.]

6 10-125.

7 (a) (1) The Legislative Auditor shall conduct:

8 (i) a fiscal audit of the accounts and transactions of the Fund each
9 year;

10 (ii) a compliance audit of the accounts and transactions of the Fund
11 every 2 years; and

12 (iii) a statutory audit of the Fund at least every 3 years in a manner
13 recognized and required by the Legislative Auditor.

14 (2) As part of the statutory audit, the Legislative Auditor shall perform a
15 market conduct survey about the operations of the Fund, including a review of:

16 (i) the average caseload of the Fund's attorneys;

17 (ii) the average length of time to process a claim;

18 (iii) each complaint submitted during the calendar year before the
19 survey, the nature of the complaint, and the resolution of the complaint;

20 (iv) the percentage of claims contested before the Workers'
21 Compensation Commission; and

22 (v) whether the Fund unfairly discriminates or allows unfair
23 discrimination between individuals of the same class and essentially the same hazard
24 level:

25 1. in the terms or conditions of an insurance policy;

26 2. in premiums charged; or

27 3. except as provided under the Fund's experience
28 modification and premium discount plan, in any other manner.

29 (3) As soon as possible, the Legislative Auditor shall submit the results
30 of:

31 (i) each audit to the Governor and, subject to § 2-1246 of the State
32 Government Article, to the Legislative Policy Committee; and

1 (ii) the market conduct survey to the Legislative Policy Committee.

2 [(b)] (4) The Fund shall pay for:

3 [(1)] (I) the fiscal portion of the postaudit examination;

4 [(2)] (II) the market conduct survey; and

5 [(3)] (III) the statutory audit.

6 (B) (1) THE MARYLAND INSURANCE COMMISSIONER SHALL EXAMINE THE
7 FUND IN ACCORDANCE WITH §§ 2-205 AND 2-207 THROUGH 2-209 OF THE INSURANCE
8 ARTICLE.

9 (2) THE MARYLAND INSURANCE COMMISSIONER SHALL SUBMIT THE
10 FINAL REPORT OF ANY EXAMINATION OF THE FUND TO THE GOVERNOR AND,
11 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE LEGISLATIVE
12 POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

13 SECTION 2. AND BE IT FURTHER ENACTED, That:

14 (a) The Insurance Commissioner shall examine the financial condition of the
15 Injured Workers' Insurance Fund and ensure that the Fund satisfies the solvency
16 standards for a workers' compensation insurer in this State before the Fund may
17 become a member of the Property and Casualty Insurance Guaranty Corporation.

18 (b) With regard to claims filed against the Injured Workers' Insurance Fund,
19 member insurers of the Property and Casualty Insurance Corporation are obligated,
20 under Title 9, Subtitle 3 of the Insurance Article, only for liabilities arising from
21 claims filed against the Injured Workers' Insurance Fund on or after the
22 commencement of membership of the Injured Workers' Insurance Fund in the
23 Corporation.

24 (c) With regard to claims filed against any member insurer other than the
25 Injured Workers' Insurance Fund, the Injured Workers' Insurance Fund is obligated
26 as a member of the Property and Casualty Insurance Corporation, under Title 9,
27 Subtitle 3 of the Insurance Article, only for liabilities arising from claims filed against
28 other member insurers of the Corporation on or after the commencement of
29 membership of the Injured Workers' Insurance Fund in the Corporation.

30 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take
31 effect October 1, 2000.