

final offer total packages of the parties as submitted to the commissioner at impasse, unless conventional arbitration is agreed to by both parties in writing. However, the arbitrator or panel has no jurisdiction or authority to entertain any matter or issue that is not a term and condition of employment or protected by section 179A.07, subdivision 1, unless the matter or issue was included in the employer's final position.

(b) This subdivision expires June 30, 2003.

Presented to the governor May 13, 1999

Signed by the governor May 17, 1999, 4:30 p.m.

---

### CHAPTER 167—S.F.No. 1609

#### VETOED

---

### CHAPTER 168—S.F.No. 2038

*An act relating to insurance; regulating workers' compensation self-insurance; providing reporting and financial requirements; amending Minnesota Statutes 1998, sections 79A.21, subdivisions 2 and 3; 79A.22, subdivision 2; 79A.23; and 79A.24, subdivision 2.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1998, section 79A.21, subdivision 2, is amended to read:

Subd. 2. **REQUIRED DOCUMENTS.** All applications must be accompanied by the following:

(a) A detailed business plan including the risk profile of the proposed membership, underwriting guidelines, marketing plan, minimum financial criteria for each member, and financial projections for the first year of operation.

(b) A plan describing the method in which premiums are to be charged to the employer members. The plan shall be accompanied by copies of the member's workers' compensation insurance policies in force at the time of application. In developing the premium for the group, the commercial self-insurance group shall base its premium on the Minnesota workers' compensation insurers association's manual of rules, loss costs, and classifications approved for use in Minnesota by the commissioner. Each member applicant shall, on a form approved by the commissioner, complete estimated payrolls for the first 12-month period that the applicant will be self-insured. Premium volume discounts per the plan will be permitted if they can be shown to be consistent with actuarial standards.

(c) A schedule indicating actual or anticipated operational expenses of the commercial self-insurance group. No authority to self-insure will be granted unless, over the

New language is indicated by underline, deletions by ~~strikeout~~.

term of the policy year, at least 65 percent of total revenues from all sources for the year are available for the payment of its claim and assessment obligations. For purposes of this calculation, claim and assessment obligations include the cost of allocated loss expenses as well as special compensation fund and commercial self-insurance group security fund assessments but exclude the cost of unallocated loss expenses.

(d) An indemnity agreement from each member who will participate in the commercial self-insurance group, signed by an officer of each member, providing for joint and several liability for all claims and expenses of all of the members of the commercial self-insurance group arising in any fund year in which the member was a participant on a form approved by the commissioner. The indemnity agreement shall provide for assessments according to the group's bylaws on an individual and proportionate basis.

(e) A copy of the commercial self-insurance group bylaws.

(f) Evidence of the security deposit required under section 79A.24, accompanied by the actuarial certification study for the minimum security deposit as required under section 79A.24.

(g) Each initial member of the commercial self-insurance group shall submit to the commercial self-insurance group accountant its most recent annual financial statement. Financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit, signed by a company officer under oath, stating that there has been no material lessening of the net worth nor other adverse changes in its financial condition since the end of the period. Individual group members constituting at least 75 ~~50~~ percent of the group's annual premium shall submit reviewed or audited financial statements. The remaining members may submit compilation level statements. Statements for a period ending more than 12 months prior to the date of application cannot be accepted.

(h) A compiled combined financial statement of all group members prepared by the commercial self-insurance group's accountant and a list of members included in such statements.

(i) A copy of each member's accountant's report letter from the reports used in compiling the combined financial statements.

(j) A list of all members and the percentage of premium each represents to the total group's annual premium for the policy year.

Sec. 2. Minnesota Statutes 1998, section 79A.21, subdivision 3, is amended to read:

Subd. 3. **APPROVAL.** The commissioner shall approve an application for self-insurance upon a determination that all of the following conditions are met:

(1) a completed application and all required documents have been submitted to the commissioner;

(2) the financial ability of the commercial self-insurance group is sufficient to fulfill all obligations that may arise under this chapter or chapter 176;

(3) the annual premium of the commercial self-insurance group to be charged to initial members is at least ~~\$500,000~~ \$400,000;

New language is indicated by underline, deletions by ~~strikeout~~.

(4) the commercial self-insurance group has contracted with a service company to administer its program; and

(5) the required securities or surety bond shall be on deposit prior to the effective date of coverage for the commercial self-insurance group.

Sec. 3. Minnesota Statutes 1998, section 79A.22, subdivision 2, is amended to read:

Subd. 2. **FINANCIAL STANDARDS.** Commercial self-insurance groups shall have and maintain:

(1) combined net worth of all of the members in an amount at least equal to ~~15~~ 12 times the group's selected retention level of the workers' compensation reinsurance association;

(2) sufficient assets and liquidity in the group's common claims fund to promptly and completely meet all obligations of its members under this chapter and chapter 176.

Sec. 4. Minnesota Statutes 1998, section 79A.23, is amended to read:

**79A.23 COMMERCIAL SELF-INSURANCE GROUP REPORTING REQUIREMENTS.**

Subdivision 1. **REQUIRED REPORTS TO COMMISSIONER.** Each commercial self-insurance group shall submit the following documents to the commissioner.

(a) An annual report shall be submitted by April 1 showing the incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated outstanding liability for workers' compensation on a calendar year basis, in a manner and on forms available from the commissioner. In addition each group will submit a quarterly interim loss report showing incurred losses for all its membership.

(b) Each commercial self-insurance group shall submit within 45 days of the end of each quarter:

(1) a schedule showing all the members who participate in the group, their date of inception, and date of withdrawal, if applicable;

(2) a separate section identifying which members were added or withdrawn during that quarter; and

(3) an internal financial statement and copies of the fiscal agent's statements supporting the balances in the common claims fund.

(c) The commercial self-insurance group shall submit an annual certified financial audit report of the commercial self-insurance group fund by April 1 of the following year. The report must be accompanied by an expense schedule showing the commercial self-insurance group's operational costs for the same year including service company charges, accounting and actuarial fees, fund administration charges, reinsurance premiums, commissions, and any other costs associated with the administration of the group program.

(d) An officer of the commercial self-insurance group shall, under oath, attest to the accuracy of each report submitted under paragraphs (a), (b), and (c). Upon sufficient

New language is indicated by underline, deletions by ~~strikeout~~.

cause, the commissioner shall require the commercial self-insurance group to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors:

(1) where the losses reported appear significantly different from similar types of groups;

(2) where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or

(3) where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of the commercial self-insurance group.

If any discrepancy is found, the commissioner shall require changes in the commercial self-insurance group's business plan or service company recordkeeping practices.

(e) Each commercial self-insurance group shall submit by September 15 a copy of the group's annual federal and state income tax returns or provide proof that it has received an exemption from these filings.

(f) With the annual loss report each commercial self-insurance group shall report to the commissioner any worker's compensation claim where the full, undiscounted value is estimated to exceed \$50,000, in a manner and on forms prescribed by the commissioner.

(g) Each commercial self-insurance group shall submit by May 1 a list of all members and the percentage of premium each represents to the total group's premium for the previous calendar year.

(h) Each commercial self-insurance group shall submit by ~~May 1~~ October 15 the following documents prepared by the group's certified public accountant:

(1) a compiled combined financial statement of group members and a list of members included in this statement; and

(2) a report that the statements which were combined have met the requirements of subdivision 2.

(i) If any group member comprises over 25 percent of total group premium, that member's financial statement must be reviewed or audited, and, at the commissioner's option, must be filed with the department of commerce by ~~May 1~~ October 15 of the following year.

(j) Each commercial self-insurance group shall submit a copy of each member's accountant's report letter from the reports used in compiling the combined financial statements.

**Subd. 2. REQUIRED REPORTS FROM MEMBERS TO GROUP.** Each member of the commercial self-insurance group shall, by ~~April 1~~ September 15, submit to the group its most recent annual financial statement, together with other financial informa-

New language is indicated by underline, deletions by ~~strikeout~~.

tion the group may require. These financial statements submitted must not have a fiscal year end date older than January 15 of the group's calendar year end. Individual group members constituting at least 50 25 percent of the group's annual premium shall submit to the group reviewed or audited financial statements. The remaining members may submit compilation level statements.

Subd. 3. **OPERATIONAL AUDIT.** (a) The commissioner, prior to authorizing surplus distribution of a commercial self-insurance group's first fund year or no later than after the third anniversary of the group's authority to self-insure, shall conduct an operational audit of the commercial self-insurance group's claim handling and reserve practices as well as its underwriting procedures to determine if they adhere to the group's business plan. The commissioner may select outside consultants to assist in conducting the audit. After completion of the audit, the commissioner shall either renew or revoke the commercial self-insurance group's authority to self-insure. The commissioner may also order any changes deemed necessary in the claims handling, reserving practices, or underwriting procedures of the group.

(b) The cost of the operational audit shall be borne by the commercial self-insurance group.

Subd. 4. **UNIT STATISTICAL REPORT.** Each commercial self-insurance group will annually file a unit statistical report to the Minnesota workers' compensation insurers association.

Sec. 5. Minnesota Statutes 1998, section 79A.24, subdivision 2, is amended to read:

Subd. 2. **MINIMUM DEPOSIT.** The minimum deposit is ~~150~~ 125 percent of the commercial self-insurance group's estimated future liability for the payment of compensation as determined by an actuary. If all the members of the commercial self-insurance group have submitted reviewed or audited financial statements to the group's accountant, this minimum deposit shall be 110 percent of the commercial self-insurance group's estimated future liability for the payment of workers' compensation as determined by an actuary. The group must file a letter with the commissioner from the group's accountant which confirms that the compiled combined financial statements were prepared from members reviewed or audited financial statements only before the lower security deposit is allowed. Each actuarial study shall include a projection of future losses during a one-year period until the next scheduled actuarial study, less payments anticipated to be made during that time. Deduction should be made for the total amount which is estimated to be returned to the commercial self-insurance group from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits which are estimated to be reimbursed by the special compensation fund. Supplementary benefits will not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the required reports are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the group's selected retention limit of the workers' compensation reinsurance association. The posting or depositing of security under this section shall release all previously posted or deposited security from any obligations under the posting or depositing and any surety bond so released shall be returned to the surety. Any other security shall be returned to the depositor or the person posting the bond.

New language is indicated by underline, deletions by ~~strikeout~~.

**Sec. 6. EFFECTIVE DATE.**

Sections 1 to 5 are effective the day following final enactment.

Presented to the governor May 13, 1999

Signed by the governor May 17, 1999, 4:32 p.m.

---

**CHAPTER 169—S.F.No. 2052**

*An act relating to claims against the state; providing for payment of various claims; clarifying certain language concerning claims; authorizing determination of a lake control elevation; appropriating money; amending Minnesota Statutes 1998, sections 3.738, subdivision 2; and 3.739, subdivision 2a.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

**Section 1. BUREAU OF CRIMINAL APPREHENSION.**

\$5,000 is appropriated from the general fund to the director of the bureau of criminal apprehension for payment to Ronald E. Wortman in full and final payment of his claim against the state for wages lost because of an erroneous or misleading background check. This appropriation is available until June 30, 2000.

**Sec. 2. DEPARTMENT OF CORRECTIONS.**

**Subdivision 1. COMMUNITY SERVICE AND SENTENCING TO SERVICE WORK.** The amounts in this subdivision are appropriated from the general fund to the commissioner of corrections for payment under Minnesota Statutes, section 3.739, to service providers as indicated in this subdivision in full and final payment of claims against the state for medical services provided to individuals who were injured while performing community service or sentencing to service work for correctional purposes. These appropriations are available until June 30, 2000.

(a) For claims under \$500 each and other claims already paid by the department.....\$6,679.25.

(b) For medical services provided to Michael Dean Ahrendt, who suffered injuries while performing sentencing to service work in Todd county.....\$5,616.64.

(c) For medical services provided to Hermelinda Cuevas, who suffered injuries while performing sentencing to service work in Polk county.....\$2,315.08.

(d) For medical services provided to Jennifer Henry, who suffered injuries while performing sentencing to service work in Hennepin county.....\$693.87.

**Subd. 2. INMATE INJURIES.** The amounts in this subdivision are appropriated from the general fund to the commissioner of corrections for payment under Minnesota Statutes, section 3.738, to the listed claimants in full and final payment of claims against the state for injuries suffered while performing assigned duties in state correctional facilities. These appropriations are available until June 30, 2000.

New language is indicated by underline, deletions by ~~strikeout~~.