

Chapter 53

(Senate Bill 616)

AN ACT concerning

Labor and Employment – Injured Workers’ Insurance Fund – Revisions

FOR the purpose of requiring, rather than authorizing, the Injured Workers’ Insurance Fund to be the third–party administrator for the State’s Self–Insured Workers’ Compensation Program for State Employees under a contract with the State; authorizing the Fund to use nonsupervisory employees of the Chesapeake Employers’ Insurance Company; authorizing nonsupervisory employees of the Company to be assigned to perform certain functions under a certain contract; requiring the Company and the Fund annually to execute a certain agreement; altering the membership of the Board for the Fund; providing that the terms of certain members of the Board for the Fund are the same as the members’ terms on the Board for the Company; requiring the Board for the Fund to adopt certain rules, bylaws, policies, and procedures; requiring the President of the Fund to be an employee of the Fund, rather than the President of the Company; making stylistic and conforming changes; and generally relating to the Injured Workers’ Insurance Fund.

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 10–101
Annotated Code of Maryland
(2016 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 10–102, 10–105, and 10–106(a)
Annotated Code of Maryland
(2016 Replacement Volume and 2019 Supplement)

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

Article – Labor and Employment

10–101.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Administration” means the Maryland Insurance Administration.
- (c) “Board” means the Board for the Injured Workers’ Insurance Fund.

(d) “Commissioner” means the Maryland Insurance Commissioner.

(e) “Company” means the Chesapeake Employers’ Insurance Company established under Title 24, Subtitle 3 of the Insurance Article.

(f) “Fund” means the Injured Workers’ Insurance Fund.

10–102.

(a) (1) There is an Injured Workers’ Insurance Fund.

(2) The Fund is an instrumentality of the State.

(b) On and after October 1, 2013, the Company, and not the Fund, shall serve as the workers’ compensation insurer of last resort for workers’ compensation insurance.

(c) On and after October 1, 2013, the Fund:

(1) shall continue to exist; but

(2) may not issue new policies or otherwise engage in the business of insurance.

(d) (1) On and after October 1, 2013, the Fund [may continue to] **SHALL** be the third party administrator for the State’s Self–Insured Workers’ Compensation Program for State Employees under a contract with the State.

(2) At least once every 5 years, the Commissioner shall:

(i) review the State’s Self–Insured Workers’ Compensation Program for State Employees, as administered by the Fund, to determine whether the State is receiving effective administrative services at a reasonable cost; and

(ii) submit a report to the State Treasurer on the findings of the review.

(e) (1) Subject to subsection (f) of this section, in the operation of the Company, the Company shall [utilize] **USE** employees of the Company.

(2) [In] **SUBJECT TO SUBSECTION (F) OF THIS SECTION**, IN the operation of the Fund, the Fund:

(I) shall [utilize] **USE** employees of the Fund; **AND**

(II) MAY USE NONSUPERVISORY EMPLOYEES OF THE COMPANY.

(3) The Fund shall:

- (i) maintain a payroll and human resources system; and
- (ii) be responsible for paying:

1. the employer portion of any payroll or other taxes and retirement or pension contributions for employees of the Fund; and

2. for any health or other employee benefits that are available to employees of the Fund.

(f) (1) Employees of the Fund may be assigned to perform functions of the Company under a contract between the Fund and the Company.

(2) NONSUPERVISORY EMPLOYEES OF THE COMPANY MAY BE ASSIGNED TO PERFORM FUNCTIONS OF THE FUND UNDER A CONTRACT BETWEEN THE FUND AND THE COMPANY.

(3) The Company and the Fund shall annually execute an agreement that lists:

(I) the employees of the Fund who have been assigned to perform duties on behalf of the Company; AND

(II) THE NONSUPERVISORY EMPLOYEES OF THE COMPANY WHO HAVE BEEN ASSIGNED TO PERFORM DUTIES ON BEHALF OF THE FUND.

~~[(3)]~~ (4) The agreement shall:

(i) specify the employees who will be utilized by the Company and the Fund;

(ii) provide that, except with respect to assets necessary for the Fund to perform its duties under this subtitle, all assets and liabilities of the Fund are the assets and liabilities of the Company; and

(iii) be filed with the Administration.

~~[(4)]~~ (5) Notwithstanding § 15-703(f)(3)(i) of the State Government Article, an employee of the Fund may register and maintain registration as a regulated lobbyist if the employee:

(i) is assigned to perform functions of the Company under paragraph (1) of this subsection for which an employee of the Company would be required to register; and

(ii) registers on behalf of the Company.

10–105.

(a) (1) There is a Board for the Injured Workers' Insurance Fund.

(2) The Board shall manage the business and affairs of the Fund as an instrumentality of the State in accordance with State law.

(b) **(1) The Board [is the Board for the Company established under Title 24, Subtitle 3 of the Insurance Article] CONSISTS OF THE FOLLOWING MEMBERS:**

(I) THE STATE TREASURER, OR THE STATE TREASURER'S DESIGNEE; AND

(II) THE TWO MEMBERS APPOINTED TO THE BOARD FOR THE COMPANY BY THE GOVERNOR IN ACCORDANCE WITH § 24–307(B)(1)(I) OF THE INSURANCE ARTICLE.

(2) THE TERMS OF THE MEMBERS OF THE BOARD DESCRIBED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION ARE THE SAME AS THE MEMBERS' TERMS ON THE BOARD FOR THE COMPANY.

(c) [Members of the Board that were appointed to the Board as of October 1, 2012, shall:

(1) continue to serve their current terms on the Board; and

(2) serve on the Board for the Company under the same terms and conditions as if they were appointed to the Board for the Company under Title 24, Subtitle 3 of the Insurance Article.

(d) The Board **SHALL ADOPT RULES, BYLAWS, POLICIES, AND PROCEDURES[**:

(1) shall be subject to the rules, bylaws, and procedures that the Board for the Company adopts under Title 24, Subtitle 3 of the Insurance Article; and

(2) may adopt any policy] to carry out this subtitle.

10–106.

(a) (1) The Board shall appoint a President of the Fund.

(2) The President of the Fund shall be [the President] **AN EMPLOYEE** of the [Company] **FUND**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.