

A-Engrossed
Senate Bill 96

Ordered by the Senate April 1
Including Senate Amendments dated April 1

Sponsored by Senator THOMSEN (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes certain groups of self-insured employers to qualify for exemption from security requirements for self-insured employers.

A BILL FOR AN ACT

1
2 Relating to exemption from security requirements for self-insured employer groups; amending ORS
3 656.407.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 656.407 is amended to read:

6 656.407. (1) An employer shall establish proof with the Director of the Department of Consumer
7 and Business Services that the employer is qualified either:

8 (a) As a carrier-insured employer by causing proof of coverage provided by an insurer to be filed
9 with the director; or

10 (b) As a self-insured employer by establishing proof that the employer has an adequate staff
11 qualified to process claims promptly and has the financial ability to make certain the prompt pay-
12 ment of all compensation and other payments that may become due to the director under this
13 chapter.

14 (2) Except as provided in subsection (3) of this section, a self-insured employer shall establish
15 proof of financial ability by providing security that the director determines acceptable by rule. The
16 security must be in an amount reasonably sufficient to insure payment of compensation and other
17 payments that may become due to the director but not less than the employer's normal expected
18 annual claim liabilities and in no event less than \$100,000. In arriving at the amount of security
19 required under this subsection, the director may take into consideration the financial ability of the
20 employer to pay compensation and other payments and probable continuity of operation. The secu-
21 rity shall be held by the director to secure the payment of compensation for injuries to subject
22 workers of the employer and to secure other payments that may become due from the employer to
23 the director under this chapter. Moneys received as security under this subsection shall be deposited
24 with the State Treasurer in an account separate and distinct from the General Fund. Interest earned
25 by the account shall be credited to the account. The amount of security may be increased or de-
26 creased from time to time by the director.

27 (3)(a) A city [*or*], county **or a qualified self-insured employer group** that wishes to be exempt
28 from subsection (2) of this section may make written application therefor to the director. The ap-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 plication shall include a copy of the *[city's or county's]* most recent annual audit **of the city, county**
 2 **or qualified self-insured employer group** *[as]* filed with the Secretary of State under ORS 297.405
 3 to 297.740, information regarding the establishment of a loss reserve account for the payment of
 4 compensation to injured workers and such other information as the director may require. The di-
 5 rector shall approve the application and the city *[or]*, county **or qualified self-insured employer**
 6 **group** shall be exempt from subsection (2) of this section if the director finds that:

7 (A) The city, *[or]* county **or qualified self-insured employer group** has been *[a]* self-insured
 8 *[employer]* in compliance with subsection (2) of this section for more than three consecutive years
 9 prior to making the application referred to in this subsection *[as an independently self-insured em-*
 10 *ployer and not as part of a self-insured group]*.

11 (B) The city *[or]*, county **or qualified self-insured employer group** has in effect a loss reserve
 12 account:

13 (i) That is actuarially sound and that is adequately funded as determined by an annual audit
 14 under ORS 297.405 to 297.740 to pay all compensation to injured workers and amounts due the di-
 15 rector pursuant to this chapter. A copy of the annual audit shall be filed with the director. Upon
 16 a finding that there is probable cause to believe that the loss reserve account is not actuarially
 17 sound, the director may require a city *[or]*, county **or qualified self-insured employer group** to
 18 obtain an independent actuarial audit of the loss reserve account. The requirements of this sub-
 19 section are in addition to and not in lieu of any other audit or reporting requirement otherwise
 20 prescribed by or pursuant to law.

21 (ii) That is dedicated to and may be expended only for the payment of compensation and
 22 amounts due the director by the city *[or]*, county **or qualified self-insured employer group** under
 23 this chapter.

24 (b) The director shall have the first lien and priority right to the full amount of the loss reserve
 25 account required to pay the present discounted value of all present and future claims under this
 26 chapter.

27 (c) The city *[or]*, county **or qualified self-insured employer group** shall notify the director no
 28 later than 60 days prior to any action to discontinue the loss reserve account. The city *[or]*, county
 29 **or qualified self-insured employer group** shall advise the director of the *[city's or county's]* plans
 30 **of the city, county or qualified self-insured employer group** to submit the security deposits re-
 31 quired in subsection (2) of this section, or obtain coverage as a carrier-insured employer prior to the
 32 date the loss reserve account ceases to exist. If the city *[or]*, county **or qualified self-insured**
 33 **employer group** elects to discontinue self-insurance, it shall submit such security as the director
 34 may require to insure payment of all compensation and amounts due the director for the period the
 35 city *[or]*, county **or qualified self-insured employer group** was self-insured.

36 (d) In order to requalify as a self-insured employer, the city *[or]*, county **or qualified self-**
 37 **insured employer group** must deposit prior to discontinuance of the loss reserve account such se-
 38 curity as is required by the director pursuant to subsection (2) of this section.

39 (e) Notwithstanding ORS 656.440, if prior to the date of discontinuance of the loss reserve ac-
 40 count the director has not received the security deposits required in subsection (2) of this section,
 41 the *[city's or county's]* certificate of self-insurance **of the city, county or qualified self-insured**
 42 **employer group** is automatically revoked as of that date.

43 (4) **As used in this section, "qualified self-insured employer group" means a self-insured**
 44 **employer group that is a municipal corporation or a public corporation, as those terms are**
 45 **defined in ORS 297.405.**

