

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Department of Central Management Services Law of the Civil Administrative Code of Illinois is amended by changing Section 405-105 as follows:

(20 ILCS 405/405-105) (was 20 ILCS 405/64.1)

Sec. 405-105. Fidelity, surety, property, and casualty insurance. The Department shall establish and implement a program to coordinate the handling of all fidelity, surety, property, and casualty insurance exposures of the State and the departments, divisions, agencies, branches, and universities of the State. In performing this responsibility, the Department shall have the power and duty to do the following:

(1) Develop and maintain loss and exposure data on all State property.

(2) Study the feasibility of establishing a self-insurance plan for State property and prepare estimates of the costs of reinsurance for risks beyond the realistic limits of the self-insurance.

(3) Prepare a plan for centralizing the purchase of property and casualty insurance on State property under a master policy or policies and purchase the insurance

contracted for as provided in the Illinois Purchasing Act.

(4) Evaluate existing provisions for fidelity bonds required of State employees and recommend changes that are appropriate commensurate with risk experience and the determinations respecting self-insurance or reinsurance so as to permit reduction of costs without loss of coverage.

(5) Investigate procedures for inclusion of school districts, public community college districts, and other units of local government in programs for the centralized purchase of insurance.

(6) Implement recommendations of the State Property Insurance Study Commission that the Department finds necessary or desirable in the performance of its powers and duties under this Section to achieve efficient and comprehensive risk management.

(7) Prepare and, in the discretion of the Director, implement a plan providing for the purchase of public liability insurance or for self-insurance for public liability or for a combination of purchased insurance and self-insurance for public liability (i) covering the State and drivers of motor vehicles owned, leased, or controlled by the State of Illinois pursuant to the provisions and limitations contained in the Illinois Vehicle Code, (ii) covering other public liability exposures of the State and its employees within the scope of their employment, and (iii) covering drivers of motor vehicles not owned, leased,

or controlled by the State but used by a State employee on State business, in excess of liability covered by an insurance policy obtained by the owner of the motor vehicle or in excess of the dollar amounts that the Department shall determine to be reasonable. Any contract of insurance let under this Law shall be by bid in accordance with the procedure set forth in the Illinois Purchasing Act. Any provisions for self-insurance shall conform to subdivision (11).

The term "employee" as used in this subdivision (7) and in subdivision (11) means a person while in the employ of the State who is a member of the staff or personnel of a State agency, bureau, board, commission, committee, department, university, or college or who is a State officer, elected official, commissioner, member of or ex officio member of a State agency, bureau, board, commission, committee, department, university, or college, or a member of the National Guard while on active duty pursuant to orders of the Governor of the State of Illinois, or any other person while using a licensed motor vehicle owned, leased, or controlled by the State of Illinois with the authorization of the State of Illinois, provided the actual use of the motor vehicle is within the scope of that authorization and within the course of State service.

Subsequent to payment of a claim on behalf of an

employee pursuant to this Section and after reasonable advance written notice to the employee, the Director may exclude the employee from future coverage or limit the coverage under the plan if (i) the Director determines that the claim resulted from an incident in which the employee was grossly negligent or had engaged in willful and wanton misconduct or (ii) the Director determines that the employee is no longer an acceptable risk based on a review of prior accidents in which the employee was at fault and for which payments were made pursuant to this Section.

The Director is authorized to promulgate administrative rules that may be necessary to establish and administer the plan.

Appropriations from the Road Fund shall be used to pay auto liability claims and related expenses involving employees of the Department of Transportation, the Illinois State Police, and the Secretary of State.

(8) Charge, collect, and receive from all other agencies of the State government fees or monies equivalent to the cost of purchasing the insurance.

(9) Establish, through the Director, charges for risk management services rendered to State agencies by the Department. The State agencies so charged shall reimburse the Department by vouchers drawn against their respective appropriations. The reimbursement shall be determined by the Director as amounts sufficient to reimburse the

Department for expenditures incurred in rendering the service.

The Department shall charge the employing State agency or university for workers' compensation payments for temporary total disability paid to any employee after the employee has received temporary total disability payments for 120 days if the employee's treating physician has issued a release to return to work with restrictions and the employee is able to perform modified duty work but the employing State agency or university does not return the employee to work at modified duty. Modified duty shall be duties assigned that may or may not be delineated as part of the duties regularly performed by the employee. Modified duties shall be assigned within the prescribed restrictions established by the treating physician and the physician who performed the independent medical examination. The amount of all reimbursements shall be deposited into the Workers' Compensation Revolving Fund which is hereby created as a revolving fund in the State treasury. In addition to any other purpose authorized by law, moneys in the Fund shall be used, subject to appropriation, to pay these or other temporary total disability claims of employees of State agencies and universities.

Beginning with fiscal year 1996, all amounts recovered by the Department through subrogation in workers'

compensation and workers' occupational disease cases shall be deposited into the Workers' Compensation Revolving Fund created under this subdivision (9).

(10) Establish ~~Through December 31, 2012, establish~~ rules, procedures, and forms to be used by State agencies in the administration and payment of workers' compensation claims. For claims filed prior to July 1, 2013 ~~Through December 31, 2012,~~ the Department shall initially evaluate and determine the compensability of any injury that is the subject of a workers' compensation claim and provide for the administration and payment of such a claim for all State agencies. For claims filed on or after July 1, 2013, the Department shall retain responsibility for certain administrative payments including, but not limited to, payments to the private vendor contracted to perform services under subdivision (10b) of this Section, payments related to travel expenses for employees of the Office of the Attorney General, and payments to internal Department staff responsible for the oversight and management of any contract awarded pursuant to subdivision (10b) of this Section. Through December 31, 2012, the Director may delegate to any agency with the agreement of the agency head the responsibility for evaluation, administration, and payment of that agency's claims. Neither the Department nor the private vendor contracted to perform services under subdivision (10b) of this Section shall be responsible for

providing workers' compensation services to the Illinois State Toll Highway Authority or to State universities that maintain self-funded workers' compensation liability programs.

(10a) By April 1 of each year prior to calendar year 2013, the Director must report and provide information to the State Workers' Compensation Program Advisory Board concerning the status of the State workers' compensation program for the next fiscal year. Information that the Director must provide to the State Workers' Compensation Program Advisory Board includes, but is not limited to, documents, reports of negotiations, bid invitations, requests for proposals, specifications, copies of proposed and final contracts or agreements, and any other materials concerning contracts or agreements for the program. By the first of each month prior to calendar year 2013, the Director must provide updated, and any new, information to the State Workers' Compensation Program Advisory Board until the State workers' compensation program for the next fiscal year is determined.

(10b) No later than January 1, 2013, the chief procurement officer appointed under paragraph (4) of subsection (a) of Section 10-20 of the Illinois Procurement Code (hereinafter "chief procurement officer"), in consultation with the Department of Central Management Services, shall procure one or more private vendors to

administer, ~~beginning January 1, 2013,~~ the program providing payments for workers' compensation liability with respect to the employees of all State agencies. The chief procurement officer may procure a single contract applicable to all State agencies or multiple contracts applicable to one or more State agencies. If the chief procurement officer procures a single contract applicable to all State agencies, then the Department of Central Management Services shall be designated as the agency that enters into the contract and shall be responsible for the contract. If the chief procurement officer procures multiple contracts applicable to one or more State agencies, each agency to which the contract applies shall be designated as the agency that shall enter into the contract and shall be responsible for the contract. If the chief procurement officer procures contracts applicable to an individual State agency, the agency subject to the contract shall be designated as the agency responsible for the contract.

(10c) The procurement of private vendors for the administration of the workers' compensation program for State employees is subject to the provisions of the Illinois Procurement Code and administration by the chief procurement officer.

(10d) Contracts for the procurement of private vendors for the administration of the workers' compensation



program for State employees shall be based upon, but limited to, the following criteria: (i) administrative cost, (ii) service capabilities of the vendor, and (iii) the compensation (including premiums, fees, or other charges). A vendor for the administration of the workers' compensation program for State employees shall provide services, including, but not limited to:

(A) providing a web-based case management system and provide access to the Office of the Attorney General;

(B) ensuring claims adjusters are available to provide testimony or information as requested by the Office of the Attorney General;

(C) establishing a preferred provider program for all State agencies and facilities; and

(D) authorizing the payment of medical bills at the preferred provider discount rate.

(10e) By September 15, 2012, the Department of Central Management Services shall prepare a plan to effectuate the transfer of responsibility and administration of the workers' compensation program for State employees to the selected private vendors. The Department shall submit a copy of the plan to the General Assembly.

(11) Any plan for public liability self-insurance implemented under this Section shall provide that (i) the Department shall attempt to settle and may settle any

public liability claim filed against the State of Illinois or any public liability claim filed against a State employee on the basis of an occurrence in the course of the employee's State employment; (ii) any settlement of such a claim is not subject to fiscal year limitations and must be approved by the Director and, in cases of settlements exceeding \$100,000, by the Governor; and (iii) a settlement of any public liability claim against the State or a State employee shall require an unqualified release of any right of action against the State and the employee for acts within the scope of the employee's employment giving rise to the claim.

Whenever and to the extent that a State employee operates a motor vehicle or engages in other activity covered by self-insurance under this Section, the State of Illinois shall defend, indemnify, and hold harmless the employee against any claim in tort filed against the employee for acts or omissions within the scope of the employee's employment in any proper judicial forum and not settled pursuant to this subdivision (11), provided that this obligation of the State of Illinois shall not exceed a maximum liability of \$2,000,000 for any single occurrence in connection with the operation of a motor vehicle or \$100,000 per person per occurrence for any other single occurrence, or \$500,000 for any single occurrence in connection with the provision of medical care by a licensed

physician employee.

Any claims against the State of Illinois under a self-insurance plan that are not settled pursuant to this subdivision (11) shall be heard and determined by the Court of Claims and may not be filed or adjudicated in any other forum. The Attorney General of the State of Illinois or the Attorney General's designee shall be the attorney with respect to all public liability self-insurance claims that are not settled pursuant to this subdivision (11) and therefore result in litigation. The payment of any award of the Court of Claims entered against the State relating to any public liability self-insurance claim shall act as a release against any State employee involved in the occurrence.

(12) Administer a plan the purpose of which is to make payments on final settlements or final judgments in accordance with the State Employee Indemnification Act. The plan shall be funded through appropriations from the General Revenue Fund specifically designated for that purpose, except that indemnification expenses for employees of the Department of Transportation, the Illinois State Police, and the Secretary of State shall be paid from the Road Fund. The term "employee" as used in this subdivision (12) has the same meaning as under subsection (b) of Section 1 of the State Employee Indemnification Act. Subject to sufficient appropriation,

the Director shall approve payment of any claim, without regard to fiscal year limitations, presented to the Director that is supported by a final settlement or final judgment when the Attorney General and the chief officer of the public body against whose employee the claim or cause of action is asserted certify to the Director that the claim is in accordance with the State Employee Indemnification Act and that they approve of the payment. In no event shall an amount in excess of \$150,000 be paid from this plan to or for the benefit of any claimant.

(13) Administer a plan the purpose of which is to make payments on final settlements or final judgments for employee wage claims in situations where there was an appropriation relevant to the wage claim, the fiscal year and lapse period have expired, and sufficient funds were available to pay the claim. The plan shall be funded through appropriations from the General Revenue Fund specifically designated for that purpose.

Subject to sufficient appropriation, the Director is authorized to pay any wage claim presented to the Director that is supported by a final settlement or final judgment when the chief officer of the State agency employing the claimant certifies to the Director that the claim is a valid wage claim and that the fiscal year and lapse period have expired. Payment for claims that are properly submitted and certified as valid by the Director shall

include interest accrued at the rate of 7% per annum from the forty-fifth day after the claims are received by the Department or 45 days from the date on which the amount of payment is agreed upon, whichever is later, until the date the claims are submitted to the Comptroller for payment. When the Attorney General has filed an appearance in any proceeding concerning a wage claim settlement or judgment, the Attorney General shall certify to the Director that the wage claim is valid before any payment is made. In no event shall an amount in excess of \$150,000 be paid from this plan to or for the benefit of any claimant.

Nothing in Public Act 84-961 shall be construed to affect in any manner the jurisdiction of the Court of Claims concerning wage claims made against the State of Illinois.

(14) Prepare and, in the discretion of the Director, implement a program for self-insurance for official fidelity and surety bonds for officers and employees as authorized by the Official Bond Act.

(Source: P.A. 96-928, eff. 6-15-10; 97-18, eff. 6-28-11; 97-895, eff. 8-3-12.)

Section 99. Effective date. This Act takes effect upon becoming law.