

1 AN ACT concerning State government.

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

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

7 (20 ILCS 405/405-105) (was 20 ILCS 405/64.1)

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

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

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

22 (3) Prepare a plan for centralizing the purchase of
23 property and casualty insurance on State property under a

1 master policy or policies and purchase the insurance
2 contracted for as provided in the Illinois Purchasing Act.

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

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

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

17 (7) Prepare and, in the discretion of the Director,
18 implement a plan providing for the purchase of public
19 liability insurance or for self-insurance for public
20 liability or for a combination of purchased insurance and
21 self-insurance for public liability (i) covering the State
22 and drivers of motor vehicles owned, leased, or controlled
23 by the State of Illinois pursuant to the provisions and
24 limitations contained in the Illinois Vehicle Code, (ii)
25 covering other public liability exposures of the State and
26 its employees within the scope of their employment, and

1 (iii) covering drivers of motor vehicles not owned,
2 leased, or controlled by the State but used by a State
3 employee on State business, in excess of liability covered
4 by an insurance policy obtained by the owner of the motor
5 vehicle or in excess of the dollar amounts that the
6 Department shall determine to be reasonable. Any contract
7 of insurance let under this Law shall be by bid in
8 accordance with the procedure set forth in the Illinois
9 Purchasing Act. Any provisions for self-insurance shall
10 conform to subdivision (11).

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

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

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

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

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

23 (9) Establish, through the Director, charges for risk
24 management services rendered to State agencies, officers,
25 boards, commissions, and universities by the Department.
26 The State agencies, officers, boards, commissions, and

1 universities so charged shall reimburse the Department by
2 vouchers drawn against their respective appropriations.
3 The reimbursement shall be determined by the Director as
4 amounts sufficient to reimburse the Department for
5 expenditures incurred in rendering the service.

6 The Department shall charge the employing State
7 agency, officer, board, commission, or university for
8 workers' compensation payments for temporary total
9 disability paid to any employee after the employee has
10 received temporary total disability payments for 120 days
11 if the employee's treating physician, advanced practice
12 registered nurse, or physician assistant has issued a
13 release to return to work with restrictions and the
14 employee is able to perform modified duty work but the
15 employing State agency, officer, board, commission, or
16 university does not return the employee to work at
17 modified duty. Modified duty shall be duties assigned that
18 may or may not be delineated as part of the duties
19 regularly performed by the employee. Modified duties shall
20 be assigned within the prescribed restrictions established
21 by the treating physician and the physician who performed
22 the independent medical examination. The amount of all
23 reimbursements shall be deposited into the Workers'
24 Compensation Revolving Fund which is hereby created as a
25 revolving fund in the State treasury. In addition to any
26 other purpose authorized by law, moneys in the Fund shall

1 be used, subject to appropriation, to pay these or other
2 temporary total disability claims of employees of State
3 agencies, officers, boards, commissions, and universities.

4 Beginning with fiscal year 1996, all amounts recovered
5 by the Department through subrogation in workers'
6 compensation and workers' occupational disease cases shall
7 be deposited into the Workers' Compensation Revolving Fund
8 created under this subdivision (9).

9 (10) Establish rules, procedures, and forms to be used
10 by State agencies, officers, boards, commissions, and
11 universities in the administration and payment of workers'
12 compensation claims. For claims filed prior to July 1,
13 2013, the Department shall initially evaluate and
14 determine the compensability of any injury that is the
15 subject of a workers' compensation claim and provide for
16 the administration and payment of such a claim for all
17 State agencies, officers, boards, commissions, and
18 universities. For claims filed on or after July 1, 2013,
19 the Department shall retain responsibility for certain
20 administrative payments including, but not limited to,
21 payments to the private vendor contracted to perform
22 services under subdivision (10b) of this Section, payments
23 related to travel expenses for employees of the Office of
24 the Attorney General, and payments to internal Department
25 staff responsible for the oversight and management of any
26 contract awarded pursuant to subdivision (10b) of this

1 Section. Through December 31, 2012, the Director may
2 delegate to any agency with the agreement of the agency
3 head the responsibility for evaluation, administration,
4 and payment of that agency's claims. Neither the
5 Department nor the private vendor contracted to perform
6 services under subdivision (10b) of this Section shall be
7 responsible for providing workers' compensation services
8 to the Illinois State Toll Highway Authority or to State
9 universities that maintain self-funded workers'
10 compensation liability programs.

11 (10a) By April 1 of each year prior to calendar year
12 2013, the Director must report and provide information to
13 the State Workers' Compensation Program Advisory Board
14 concerning the status of the State workers' compensation
15 program for the next fiscal year. Information that the
16 Director must provide to the State Workers' Compensation
17 Program Advisory Board includes, but is not limited to,
18 documents, reports of negotiations, bid invitations,
19 requests for proposals, specifications, copies of proposed
20 and final contracts or agreements, and any other materials
21 concerning contracts or agreements for the program. By the
22 first of each month prior to calendar year 2013, the
23 Director must provide updated, and any new, information to
24 the State Workers' Compensation Program Advisory Board
25 until the State workers' compensation program for the next
26 fiscal year is determined.

1 (10b) No later than January 1, 2013, the chief
2 procurement officer appointed under paragraph (4) of
3 subsection (a) of Section 10-20 of the Illinois
4 Procurement Code (hereinafter "chief procurement
5 officer"), in consultation with the Department of Central
6 Management Services, shall procure one or more private
7 vendors to administer the program providing payments for
8 workers' compensation liability with respect to the
9 employees of all State agencies, officers, boards,
10 commissions, and universities. The chief procurement
11 officer may procure a single contract applicable to all
12 State agencies, officers, boards, commissions, and
13 universities, or multiple contracts applicable to one or
14 more State agencies, officers, boards, commissions, and
15 universities. If the chief procurement officer procures a
16 single contract applicable to all State agencies,
17 officers, boards, commissions, and universities, then the
18 Department of Central Management Services shall be
19 designated as the agency that enters into the contract and
20 shall be responsible for the contract. If the chief
21 procurement officer procures multiple contracts applicable
22 to one or more State agencies, officers, boards,
23 commissions, and universities, each agency, officer,
24 board, commission, or university to which the contract
25 applies shall be designated as the agency, officer, board,
26 commission, or university that shall enter into the

1 contract and shall be responsible for the contract. If the
2 chief procurement officer procures contracts applicable to
3 an individual State agency, officer, board, commission, or
4 university, the agency, officer, board, commission, or
5 university subject to the contract shall be designated as
6 the agency, officer, board, commission, or university
7 responsible for the contract.

8 (10c) The procurement of private vendors for the
9 administration of the workers' compensation program for
10 State employees is subject to the provisions of the
11 Illinois Procurement Code and administration by the chief
12 procurement officer.

13 (10d) Contracts for the procurement of private vendors
14 for the administration of the workers' compensation
15 program for State employees shall be based upon, but
16 limited to, the following criteria: (i) administrative
17 cost, (ii) service capabilities of the vendor, and (iii)
18 the compensation (including premiums, fees, or other
19 charges). A vendor for the administration of the workers'
20 compensation program for State employees shall provide
21 services, including, but not limited to:

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

25 (B) ensuring claims adjusters are available to
26 provide testimony or information as requested by the

1 Office of the Attorney General;

2 (C) establishing a preferred provider program for
3 all State agencies, officers, boards, commissions,
4 universities, and facilities; and

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

7 (10e) By September 15, 2012, the Department of Central
8 Management Services shall prepare a plan to effectuate the
9 transfer of responsibility and administration of the
10 workers' compensation program for State employees to the
11 selected private vendors. The Department shall submit a
12 copy of the plan to the General Assembly.

13 (11) Any plan for public liability self-insurance
14 implemented under this Section shall provide that (i) the
15 Department shall attempt to settle and may settle any
16 public liability claim filed against the State of Illinois
17 or any public liability claim filed against a State
18 employee on the basis of an occurrence in the course of the
19 employee's State employment; (ii) any settlement of such a
20 claim is not subject to fiscal year limitations and must
21 be approved by the Director and, in cases of settlements
22 exceeding \$250,000 ~~\$100,000~~, by the Governor; and (iii) a
23 settlement of any public liability claim against the State
24 or a State employee shall require an unqualified release
25 of any right of action against the State and the employee
26 for acts within the scope of the employee's employment

1 giving rise to the claim.

2 Whenever and to the extent that a State employee
3 operates a motor vehicle or engages in other activity
4 covered by self-insurance under this Section, the State of
5 Illinois shall defend, indemnify, and hold harmless the
6 employee against any claim in tort filed against the
7 employee for acts or omissions within the scope of the
8 employee's employment in any proper judicial forum and not
9 settled pursuant to this subdivision (11), provided that
10 this obligation of the State of Illinois shall not exceed
11 a maximum liability of \$2,000,000 for any single
12 occurrence in connection with the operation of a motor
13 vehicle or \$100,000 per person per occurrence for any
14 other single occurrence, or \$500,000 for any single
15 occurrence in connection with the provision of medical
16 care by a licensed physician, advanced practice registered
17 nurse, or physician assistant employee.

18 Any claims against the State of Illinois under a
19 self-insurance plan that are not settled pursuant to this
20 subdivision (11) shall be heard and determined by the
21 Court of Claims and may not be filed or adjudicated in any
22 other forum. The Attorney General of the State of Illinois
23 or the Attorney General's designee shall be the attorney
24 with respect to all public liability self-insurance claims
25 that are not settled pursuant to this subdivision (11) and
26 therefore result in litigation. The payment of any award

1 of the Court of Claims entered against the State relating
2 to any public liability self-insurance claim shall act as
3 a release against any State employee involved in the
4 occurrence.

5 (12) Administer a plan the purpose of which is to make
6 payments on final settlements or final judgments in
7 accordance with the State Employee Indemnification Act.
8 The plan shall be funded through appropriations from the
9 General Revenue Fund specifically designated for that
10 purpose, except that indemnification expenses for
11 employees of the Department of Transportation, the
12 Illinois State Police, and the Secretary of State, which
13 result from the Road Fund portion of their normal
14 operations, shall be paid from the Road Fund. The term
15 "employee" as used in this subdivision (12) has the same
16 meaning as under subsection (b) of Section 1 of the State
17 Employee Indemnification Act. Subject to sufficient
18 appropriation, the Director shall approve payment of any
19 claim, without regard to fiscal year limitations,
20 presented to the Director that is supported by a final
21 settlement or final judgment when the Attorney General and
22 the chief officer of the public body against whose
23 employee the claim or cause of action is asserted certify
24 to the Director that the claim is in accordance with the
25 State Employee Indemnification Act and that they approve
26 of the payment. In no event shall an amount in excess of

1 \$150,000 be paid from this plan to or for the benefit of
2 any claimant.

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

11 Subject to sufficient appropriation, the Director is
12 authorized to pay any wage claim presented to the Director
13 that is supported by a final settlement or final judgment
14 when the chief officer of the State agency employing the
15 claimant certifies to the Director that the claim is a
16 valid wage claim and that the fiscal year and lapse period
17 have expired. Payment for claims that are properly
18 submitted and certified as valid by the Director shall
19 include interest accrued at the rate of 7% per annum from
20 the forty-fifth day after the claims are received by the
21 Department or 45 days from the date on which the amount of
22 payment is agreed upon, whichever is later, until the date
23 the claims are submitted to the Comptroller for payment.
24 When the Attorney General has filed an appearance in any
25 proceeding concerning a wage claim settlement or judgment,
26 the Attorney General shall certify to the Director that

1 the wage claim is valid before any payment is made. In no
2 event shall an amount in excess of \$150,000 be paid from
3 this plan to or for the benefit of any claimant.

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

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

12 (Source: P.A. 102-767, eff. 5-13-22.)