

HB1081



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1081

Introduced 02/03/11, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

20 ILCS 405/405-105

was 20 ILCS 405/64.1

Amends the Department of Central Management Services Law. Provides that neither the Department nor a State agency may require that the cost of liability insurance covering a motor vehicle owned, leased, or controlled by the State be reimbursed by an employee who has been assigned or authorized to use that motor vehicle.

LRB097 05529 PJG 45590 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 the
12 departments, divisions, agencies, branches, and universities
13 of the State. In performing this responsibility, the Department
14 shall have the power and duty to do the following:

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

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

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

1 contracted for as provided in the Illinois Purchasing Act.

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

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

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

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

1 or controlled by the State but used by a State employee on
2 State business, in excess of liability covered by an
3 insurance policy obtained by the owner of the motor vehicle
4 or in excess of the dollar amounts that the Department
5 shall determine to be reasonable. Any contract of insurance
6 let under this Law shall be by bid in accordance with the
7 procedure set forth in the Illinois Purchasing Act. Any
8 provisions for self-insurance shall conform to subdivision
9 (11). Notwithstanding any other provision of law, neither
10 the Department nor a State agency may require an employee
11 who is assigned and authorized to use a specific motor
12 vehicle owned, leased, or controlled by the State to
13 reimburse the Department or agency for the cost of
14 liability insurance to cover the motor vehicle.

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

1 Illinois with the authorization of the State of Illinois,
2 provided the actual use of the motor vehicle is within the
3 scope of that authorization and within the course of State
4 service.

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

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

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

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

26 (9) Establish, through the Director, charges for risk

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

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

1 appropriation, to pay these or other temporary total
2 disability claims of employees of State agencies and
3 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 in the administration and payment of
11 workers' compensation claims. The Department shall
12 initially evaluate and determine the compensability of any
13 injury that is the subject of a workers' compensation claim
14 and provide for the administration and payment of such a
15 claim for all State agencies. The Director may delegate to
16 any agency with the agreement of the agency head the
17 responsibility for evaluation, administration, and payment
18 of that agency's claims.

19 (11) Any plan for public liability self-insurance
20 implemented under this Section shall provide that (i) the
21 Department shall attempt to settle and may settle any
22 public liability claim filed against the State of Illinois
23 or any public liability claim filed against a State
24 employee on the basis of an occurrence in the course of the
25 employee's State employment; (ii) any settlement of such a
26 claim is not subject to fiscal year limitations and must be

1 approved by the Director and, in cases of settlements
2 exceeding \$100,000, by the Governor; and (iii) a settlement
3 of any public liability claim against the State or a State
4 employee shall require an unqualified release of any right
5 of action against the State and the employee for acts
6 within the scope of the employee's employment giving rise
7 to the claim.

8 Whenever and to the extent that a State employee
9 operates a motor vehicle or engages in other activity
10 covered by self-insurance under this Section, the State of
11 Illinois shall defend, indemnify, and hold harmless the
12 employee against any claim in tort filed against the
13 employee for acts or omissions within the scope of the
14 employee's employment in any proper judicial forum and not
15 settled pursuant to this subdivision (11), provided that
16 this obligation of the State of Illinois shall not exceed a
17 maximum liability of \$2,000,000 for any single occurrence
18 in connection with the operation of a motor vehicle or
19 \$100,000 per person per occurrence for any other single
20 occurrence, or \$500,000 for any single occurrence in
21 connection with the provision of medical care by a licensed
22 physician employee.

23 Any claims against the State of Illinois under a
24 self-insurance plan that are not settled pursuant to this
25 subdivision (11) shall be heard and determined by the Court
26 of Claims and may not be filed or adjudicated in any other

1 forum. The Attorney General of the State of Illinois or the
2 Attorney General's designee shall be the attorney with
3 respect to all public liability self-insurance claims that
4 are not settled pursuant to this subdivision (11) and
5 therefore result in litigation. The payment of any award of
6 the Court of Claims entered against the State relating to
7 any public liability self-insurance claim shall act as a
8 release against any State employee involved in the
9 occurrence.

10 (12) Administer a plan the purpose of which is to make
11 payments on final settlements or final judgments in
12 accordance with the State Employee Indemnification Act.
13 The plan shall be funded through appropriations from the
14 General Revenue Fund specifically designated for that
15 purpose, except that indemnification expenses for
16 employees of the Department of Transportation, the
17 Illinois State Police, and the Secretary of State shall be
18 paid from the Road Fund. The term "employee" as used in
19 this subdivision (12) has the same meaning as under
20 subsection (b) of Section 1 of the State Employee
21 Indemnification Act. Subject to sufficient appropriation,
22 the Director shall approve payment of any claim, without
23 regard to fiscal year limitations, presented to the
24 Director that is supported by a final settlement or final
25 judgment when the Attorney General and the chief officer of
26 the public body against whose employee the claim or cause

1 of action is asserted certify to the Director that the
2 claim is in accordance with the State Employee
3 Indemnification Act and that they approve of the payment.
4 In no event shall an amount in excess of \$150,000 be paid
5 from this plan to or for the benefit of any claimant.

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

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

1 When the Attorney General has filed an appearance in any
2 proceeding concerning a wage claim settlement or judgment,
3 the Attorney General shall certify to the Director that the
4 wage claim is valid before any payment is made. In no event
5 shall an amount in excess of \$150,000 be paid from this
6 plan to or for the benefit of any claimant.

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

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

15 (Source: P.A. 96-928, eff. 6-15-10.)