



Rep. Barbara Flynn Currie

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LRB096 04937 AMC 44030 a

1 AMENDMENT TO HOUSE BILL 1365

2 AMENDMENT NO. _____. Amend House Bill 1365 by replacing
3 everything after the enacting clause with the following:

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.

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

5 (3) Prepare a plan for centralizing the purchase of
6 property and casualty insurance on State property under a
7 master policy or policies and purchase the insurance
8 contracted for as provided in the Illinois Purchasing Act.

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

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

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

23 (7) Prepare and, ~~in the discretion of the Director,~~
24 implement a plan in writing providing for the purchase of
25 public liability insurance or for self-insurance for
26 public liability or for a combination of purchased

1 insurance and self-insurance for public liability (i)
2 covering the State and drivers of motor vehicles owned,
3 leased, or controlled by the State of Illinois pursuant to
4 the provisions and limitations contained in the Illinois
5 Vehicle Code, (ii) covering other public liability
6 exposures of the State and its employees within the scope
7 of their employment, and (iii) covering drivers of motor
8 vehicles not owned, leased, or controlled by the State but
9 used by a State employee on State business, in excess of
10 liability covered by an insurance policy obtained by the
11 owner of the motor vehicle or in excess of the dollar
12 amounts that the Department shall determine to be
13 reasonable. Any contract of insurance let under this Law
14 shall be by bid in accordance with the procedure set forth
15 in the Illinois Purchasing Act. Any provisions for
16 self-insurance shall conform to subdivision (11).

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

1 Illinois, or any other person while using a licensed motor
2 vehicle owned, leased, or controlled by the State of
3 Illinois with the authorization of the State of Illinois,
4 provided the actual use of the motor vehicle is within the
5 scope of that authorization and within the course of State
6 service.

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

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

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

25 (8) Charge, collect, and receive from all other
26 agencies of the State government fees or monies equivalent

1 to the cost of purchasing the insurance.

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

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

1 treasury. In addition to any other purpose authorized by
2 law, moneys in the Fund shall be used, subject to
3 appropriation, to pay these or other temporary total
4 disability claims of employees of State agencies and
5 universities.

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

11 (10) Establish rules, procedures, and forms to be used
12 by State agencies in the administration and payment of
13 workers' compensation claims. The Department shall
14 initially evaluate and determine the compensability of any
15 injury that is the subject of a workers' compensation claim
16 and provide for the administration and payment of such a
17 claim for all State agencies. The Director may delegate to
18 any agency with the agreement of the agency head the
19 responsibility for evaluation, administration, and payment
20 of that agency's claims.

21 (11) Any plan for public liability self-insurance
22 implemented under this Section and extended to the General
23 Assembly, its legislative district offices, and its
24 members and employees pursuant to subdivision (15) of this
25 Section shall provide that (i) the Department shall attempt
26 to settle and may settle any public liability claim filed

1 against the State of Illinois or any public liability claim
2 filed against a State employee on the basis of an
3 occurrence in the course of the employee's State
4 employment; (ii) any settlement of such a claim is not
5 subject to fiscal year limitations and must be approved by
6 the Director and, in cases of settlements exceeding
7 \$100,000, by the Governor; and (iii) a settlement of any
8 public liability claim against the State or a State
9 employee shall require an unqualified release of any right
10 of action against the State and the employee for acts
11 within the scope of the employee's employment giving rise
12 to the claim.

13 Whenever and to the extent that a State employee
14 operates a motor vehicle or engages in other activity
15 covered by self-insurance under this Section, the State of
16 Illinois shall defend, indemnify, and hold harmless the
17 employee against any claim in tort filed against the
18 employee for acts or omissions within the scope of the
19 employee's employment in any proper judicial forum and not
20 settled pursuant to this subdivision (11), provided that
21 this obligation of the State of Illinois shall not exceed a
22 maximum liability of \$2,000,000 for any single occurrence
23 in connection with the operation of a motor vehicle or
24 \$100,000 per person per occurrence for any other single
25 occurrence, or \$500,000 for any single occurrence in
26 connection with the provision of medical care by a licensed

1 physician employee.

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

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

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

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

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

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

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

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

20 (15) By February 1, 2011, extend to the General
21 Assembly, its legislative district offices, and its
22 members and employees within the scope of their service or
23 employment the State's existing plan for public liability
24 and property self-insurance established and administered
25 by the Department pursuant to subdivision (7) of this
26 Section and, upon request, promptly issue certificates

1 demonstrating such coverage. For purposes of this
2 subdivision (15), "employee" means any person employed
3 full-time, part-time, or pursuant to a contract. In no
4 event shall this subdivision (15) be administered in a
5 manner that would extend coverage (i) to property in which
6 political activity is conducted or (ii) to members or
7 employees engaged in political activity.

8 (16) By February 1, 2011, recommend a plan to be
9 administered by the General Assembly providing for the
10 purchase of insurance or for self-insurance or for a
11 combination of purchased insurance and self-insurance (i)
12 covering all foreseeable public liability and property
13 exposures (including fire and casualty) of the General
14 Assembly, its legislative district offices, and its
15 members and employees acting within the scope of their
16 service or employment not otherwise covered by the
17 extension of the State's plan pursuant to subdivision (15)
18 of this Section, (ii) covering drivers of motor vehicles
19 owned, leased, or controlled by the General Assembly,
20 provided that such drivers are acting within the scope of
21 their service or employment, and (iii) covering drivers of
22 motor vehicles not owned, leased, or controlled by the
23 General Assembly but used by the General Assembly, provided
24 that such drivers are acting within the scope of their
25 service or employment. For purposes of this subdivision
26 (16), "employee" means any person employed full-time,

1 part-time, or pursuant to a contract.

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

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