

1 AN ACT concerning 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, and, by April 1, 2011, reduce to writing and
18 make available on its website a plan providing for the
19 purchase of public liability insurance or for
20 self-insurance for public liability or for a combination of
21 purchased insurance and self-insurance for public
22 liability (i) covering the State and drivers of motor
23 vehicles owned, leased, or controlled by the State of
24 Illinois pursuant to the provisions and limitations
25 contained in the Illinois Vehicle Code, (ii) covering other
26 public liability exposures of the State and its employees

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

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

1 service.

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

13 The Director is authorized to promulgate
14 administrative rules that may be necessary to establish and
15 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 by the
25 Department. The State agencies so charged shall reimburse
26 the Department by vouchers drawn against their respective

1 appropriations. The reimbursement shall be determined by
2 the Director as amounts sufficient to reimburse the
3 Department for expenditures incurred in rendering the
4 service.

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

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

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

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

1 employee shall require an unqualified release of any right
2 of action against the State and the employee for acts
3 within the scope of the employee's employment giving rise
4 to the claim.

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

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

1 are not settled pursuant to this subdivision (11) and
2 therefore result in litigation. The payment of any award of
3 the Court of Claims entered against the State relating to
4 any public liability self-insurance claim shall act as a
5 release against any State employee involved in the
6 occurrence.

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

1 In no event shall an amount in excess of \$150,000 be paid
2 from this plan to or for the benefit of 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 the

1 wage claim is valid before any payment is made. In no event
2 shall an amount in excess of \$150,000 be paid from this
3 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 (15) By April 1, 2011, recommend a plan to be
13 administered by the General Assembly providing for the
14 purchase of insurance or for self-insurance or for a
15 combination of purchased insurance and self-insurance
16 covering all foreseeable public liability and property
17 exposures (including fire and casualty) of the General
18 Assembly, its legislative district offices, and its
19 members and employees acting within the scope of their
20 service or employment. The plan shall be reduced to writing
21 and filed with the Clerk of the House and the Secretary of
22 the Senate. At a minimum, the plan shall include:

23 (A) specific reasons as to why the plan is the most
24 economical and practical for the General Assembly;

25 (B) if the Department recommends that insurance be
26 purchased, a listing of responsible private entities

1 from which the General Assembly may procure such
2 services;

3 (C) if the Department recommends that a system of
4 self-insurance be established, specific procedures for
5 the handling and settlement of claims;

6 (D) if the Department recommends that a system of
7 self-insurance be established, an opinion as to
8 whether additional appropriations in Fiscal Year 2011
9 or any fiscal year thereafter are necessary to
10 implement the system; and

11 (E) specific procedures for the leasing of
12 legislative district office space, including, without
13 limitation, insurance obligations to be imposed upon
14 lessors and standard language to be incorporated into
15 lease agreements memorializing such obligations.

16 For purposes of this subdivision (15), "employee" means any
17 person employed full-time, part-time, or pursuant to a
18 contract.

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

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