



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4189

Introduced 2/27/2009, by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

20 ILCS 405/405-105
30 ILCS 105/25

was 20 ILCS 405/64.1
from Ch. 127, par. 161

Amends the Department of Central Management Services Law of the Civil Administrative Code of Illinois and the State Finance Act. Provides that liability self-insurance settlements and State employee indemnification payments are not subject to fiscal year limitations.

LRB096 03378 RCE 13401 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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 self-insurance
18 plan for State property and prepare estimates of the costs of
19 reinsurance for risks beyond the realistic limits of the
20 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 contracted

1 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 as
6 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 units
9 of local government in programs for the centralized purchase of
10 insurance.

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

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

1 State employee on State business, in excess of liability
2 covered by an insurance policy obtained by the owner of the
3 motor vehicle or in excess of the dollar amounts that the
4 Department shall determine to be reasonable. Any contract of
5 insurance let under this Law shall be by bid in accordance with
6 the procedure set forth in the Illinois Purchasing Act. Any
7 provisions for self-insurance shall conform to subdivision
8 (11).

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

24 Subsequent to payment of a claim on behalf of an employee
25 pursuant to this Section and after reasonable advance written
26 notice to the employee, the Director may exclude the employee

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

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

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

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

19 (9) Establish, through the Director, charges for risk
20 management services rendered to State agencies by the
21 Department. The State agencies so charged shall reimburse the
22 Department by vouchers drawn against their respective
23 appropriations. The reimbursement shall be determined by the
24 Director as amounts sufficient to reimburse the Department for
25 expenditures incurred in rendering the service.

26 The Department shall charge the employing State agency or

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

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

25 (10) Establish rules, procedures, and forms to be used by
26 State agencies in the administration and payment of workers'

1 compensation claims. The Department shall initially evaluate
2 and determine the compensability of any injury that is the
3 subject of a workers' compensation claim and provide for the
4 administration and payment of such a claim for all State
5 agencies. The Director may delegate to any agency with the
6 agreement of the agency head the responsibility for evaluation,
7 administration, and payment of that agency's claims.

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

23 Whenever and to the extent that a State employee operates a
24 motor vehicle or engages in other activity covered by
25 self-insurance under this Section, the State of Illinois shall
26 defend, indemnify, and hold harmless the employee against any

1 claim in tort filed against the employee for acts or omissions
2 within the scope of the employee's employment in any proper
3 judicial forum and not settled pursuant to this subdivision
4 (11), provided that this obligation of the State of Illinois
5 shall not exceed a maximum liability of \$2,000,000 for any
6 single occurrence in connection with the operation of a motor
7 vehicle or \$100,000 per person per occurrence for any other
8 single occurrence, or \$500,000 for any single occurrence in
9 connection with the provision of medical care by a licensed
10 physician employee.

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

23 (12) Administer a plan the purpose of which is to make
24 payments on final settlements or final judgments in accordance
25 with the State Employee Indemnification Act. The plan shall be
26 funded through appropriations from the General Revenue Fund

1 specifically designated for that purpose, except that
2 indemnification expenses for employees of the Department of
3 Transportation, the Illinois State Police, and the Secretary of
4 State shall be paid from the Road Fund. The term "employee" as
5 used in this subdivision (12) has the same meaning as under
6 subsection (b) of Section 1 of the State Employee
7 Indemnification Act. Subject to sufficient appropriation, the
8 Director shall approve payment of any claim presented to the
9 Director that is supported by a final settlement or final
10 judgment when the Attorney General and the chief officer of the
11 public body against whose employee the claim or cause of action
12 is asserted certify to the Director that the claim is in
13 accordance with the State Employee Indemnification Act and that
14 they approve of the payment. In no event shall an amount in
15 excess of \$150,000 be paid from this plan to or for the benefit
16 of any claimant. Settlements of claims under this item (12) are
17 not subject to fiscal year limitations.

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

25 Subject to sufficient appropriation, the Director is
26 authorized to pay any wage claim presented to the Director that

1 is supported by a final settlement or final judgment when the
2 chief officer of the State agency employing the claimant
3 certifies to the Director that the claim is a valid wage claim
4 and that the fiscal year and lapse period have expired. Payment
5 for claims that are properly submitted and certified as valid
6 by the Director shall include interest accrued at the rate of
7 7% per annum from the forty-fifth day after the claims are
8 received by the Department or 45 days from the date on which
9 the amount of payment is agreed upon, whichever is later, until
10 the date the claims are submitted to the Comptroller for
11 payment. When the Attorney General has filed an appearance in
12 any proceeding concerning a wage claim settlement or judgment,
13 the Attorney General shall certify to the Director that the
14 wage claim is valid before any payment is made. In no event
15 shall an amount in excess of \$150,000 be paid from this plan to
16 or for the benefit of any claimant.

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

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

24 (Source: P.A. 93-839, eff. 7-30-04.)

25 Section 10. The State Finance Act is amended by changing

1 Section 25 as follows:

2 (30 ILCS 105/25) (from Ch. 127, par. 161)

3 Sec. 25. Fiscal year limitations.

4 (a) All appropriations shall be available for expenditure
5 for the fiscal year or for a lesser period if the Act making
6 that appropriation so specifies. A deficiency or emergency
7 appropriation shall be available for expenditure only through
8 June 30 of the year when the Act making that appropriation is
9 enacted unless that Act otherwise provides.

10 (b) Outstanding liabilities as of June 30, payable from
11 appropriations which have otherwise expired, may be paid out of
12 the expiring appropriations during the 2-month period ending at
13 the close of business on August 31. Any service involving
14 professional or artistic skills or any personal services by an
15 employee whose compensation is subject to income tax
16 withholding must be performed as of June 30 of the fiscal year
17 in order to be considered an "outstanding liability as of June
18 30" that is thereby eligible for payment out of the expiring
19 appropriation.

20 However, payment of tuition reimbursement claims under
21 Section 14-7.03 or 18-3 of the School Code may be made by the
22 State Board of Education from its appropriations for those
23 respective purposes for any fiscal year, even though the claims
24 reimbursed by the payment may be claims attributable to a prior
25 fiscal year, and payments may be made at the direction of the

1 State Superintendent of Education from the fund from which the
2 appropriation is made without regard to any fiscal year
3 limitations.

4 Medical payments may be made by the Department of Veterans'
5 Affairs from its appropriations for those purposes for any
6 fiscal year, without regard to the fact that the medical
7 services being compensated for by such payment may have been
8 rendered in a prior fiscal year.

9 Medical payments may be made by the Department of
10 Healthcare and Family Services and medical payments and child
11 care payments may be made by the Department of Human Services
12 (as successor to the Department of Public Aid) from
13 appropriations for those purposes for any fiscal year, without
14 regard to the fact that the medical or child care services
15 being compensated for by such payment may have been rendered in
16 a prior fiscal year; and payments may be made at the direction
17 of the Department of Central Management Services from the
18 Health Insurance Reserve Fund and the Local Government Health
19 Insurance Reserve Fund without regard to any fiscal year
20 limitations.

21 Medical payments may be made by the Department of Human
22 Services from its appropriations relating to substance abuse
23 treatment services for any fiscal year, without regard to the
24 fact that the medical services being compensated for by such
25 payment may have been rendered in a prior fiscal year, provided
26 the payments are made on a fee-for-service basis consistent

1 with requirements established for Medicaid reimbursement by
2 the Department of Healthcare and Family Services.

3 Additionally, payments may be made by the Department of
4 Human Services from its appropriations, or any other State
5 agency from its appropriations with the approval of the
6 Department of Human Services, from the Immigration Reform and
7 Control Fund for purposes authorized pursuant to the
8 Immigration Reform and Control Act of 1986, without regard to
9 any fiscal year limitations.

10 Further, with respect to costs incurred in fiscal years
11 2002 and 2003 only, payments may be made by the State Treasurer
12 from its appropriations from the Capital Litigation Trust Fund
13 without regard to any fiscal year limitations.

14 Lease payments may be made by the Department of Central
15 Management Services under the sale and leaseback provisions of
16 Section 7.4 of the State Property Control Act with respect to
17 the James R. Thompson Center and the Elgin Mental Health Center
18 and surrounding land from appropriations for that purpose
19 without regard to any fiscal year limitations.

20 Lease payments may be made under the sale and leaseback
21 provisions of Section 7.5 of the State Property Control Act
22 with respect to the Illinois State Toll Highway Authority
23 headquarters building and surrounding land without regard to
24 any fiscal year limitations.

25 Liability self-insurance payments under item (11) of 20
26 ILCS 405/405-105 and State employee indemnification payments

1 under item (12) of 20 ILCS 405/405-105 may be made by the
2 Department of Central Management Services from appropriations
3 for those respective purposes without regard to any fiscal year
4 limitations.

5 (c) Further, payments may be made by the Department of
6 Public Health and the Department of Human Services (acting as
7 successor to the Department of Public Health under the
8 Department of Human Services Act) from their respective
9 appropriations for grants for medical care to or on behalf of
10 persons suffering from chronic renal disease, persons
11 suffering from hemophilia, rape victims, and premature and
12 high-mortality risk infants and their mothers and for grants
13 for supplemental food supplies provided under the United States
14 Department of Agriculture Women, Infants and Children
15 Nutrition Program, for any fiscal year without regard to the
16 fact that the services being compensated for by such payment
17 may have been rendered in a prior fiscal year.

18 (d) The Department of Public Health and the Department of
19 Human Services (acting as successor to the Department of Public
20 Health under the Department of Human Services Act) shall each
21 annually submit to the State Comptroller, Senate President,
22 Senate Minority Leader, Speaker of the House, House Minority
23 Leader, and the respective Chairmen and Minority Spokesmen of
24 the Appropriations Committees of the Senate and the House, on
25 or before December 31, a report of fiscal year funds used to
26 pay for services provided in any prior fiscal year. This report

1 shall document by program or service category those
2 expenditures from the most recently completed fiscal year used
3 to pay for services provided in prior fiscal years.

4 (e) The Department of Healthcare and Family Services, the
5 Department of Human Services (acting as successor to the
6 Department of Public Aid), and the Department of Human Services
7 making fee-for-service payments relating to substance abuse
8 treatment services provided during a previous fiscal year shall
9 each annually submit to the State Comptroller, Senate
10 President, Senate Minority Leader, Speaker of the House, House
11 Minority Leader, the respective Chairmen and Minority
12 Spokesmen of the Appropriations Committees of the Senate and
13 the House, on or before November 30, a report that shall
14 document by program or service category those expenditures from
15 the most recently completed fiscal year used to pay for (i)
16 services provided in prior fiscal years and (ii) services for
17 which claims were received in prior fiscal years.

18 (f) The Department of Human Services (as successor to the
19 Department of Public Aid) shall annually submit to the State
20 Comptroller, Senate President, Senate Minority Leader, Speaker
21 of the House, House Minority Leader, and the respective
22 Chairmen and Minority Spokesmen of the Appropriations
23 Committees of the Senate and the House, on or before December
24 31, a report of fiscal year funds used to pay for services
25 (other than medical care) provided in any prior fiscal year.
26 This report shall document by program or service category those

1 expenditures from the most recently completed fiscal year used
2 to pay for services provided in prior fiscal years.

3 (g) In addition, each annual report required to be
4 submitted by the Department of Healthcare and Family Services
5 under subsection (e) shall include the following information
6 with respect to the State's Medicaid program:

7 (1) Explanations of the exact causes of the variance
8 between the previous year's estimated and actual
9 liabilities.

10 (2) Factors affecting the Department of Healthcare and
11 Family Services' liabilities, including but not limited to
12 numbers of aid recipients, levels of medical service
13 utilization by aid recipients, and inflation in the cost of
14 medical services.

15 (3) The results of the Department's efforts to combat
16 fraud and abuse.

17 (h) As provided in Section 4 of the General Assembly
18 Compensation Act, any utility bill for service provided to a
19 General Assembly member's district office for a period
20 including portions of 2 consecutive fiscal years may be paid
21 from funds appropriated for such expenditure in either fiscal
22 year.

23 (i) An agency which administers a fund classified by the
24 Comptroller as an internal service fund may issue rules for:

25 (1) billing user agencies in advance for payments or
26 authorized inter-fund transfers based on estimated charges

1 for goods or services;

2 (2) issuing credits, refunding through inter-fund
3 transfers, or reducing future inter-fund transfers during
4 the subsequent fiscal year for all user agency payments or
5 authorized inter-fund transfers received during the prior
6 fiscal year which were in excess of the final amounts owed
7 by the user agency for that period; and

8 (3) issuing catch-up billings to user agencies during
9 the subsequent fiscal year for amounts remaining due when
10 payments or authorized inter-fund transfers received from
11 the user agency during the prior fiscal year were less than
12 the total amount owed for that period.

13 User agencies are authorized to reimburse internal service
14 funds for catch-up billings by vouchers drawn against their
15 respective appropriations for the fiscal year in which the
16 catch-up billing was issued or by increasing an authorized
17 inter-fund transfer during the current fiscal year. For the
18 purposes of this Act, "inter-fund transfers" means transfers
19 without the use of the voucher-warrant process, as authorized
20 by Section 9.01 of the State Comptroller Act.

21 (Source: P.A. 95-331, eff. 8-21-07.)