

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).

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

26 Subsequent to payment of a claim on behalf of an

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

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

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

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

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

1 Department for expenditures incurred in rendering the  
2 service.

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

25 Beginning with fiscal year 1996, all amounts recovered  
26 by the Department through subrogation in workers'

1 compensation and workers' occupational disease cases shall  
2 be deposited into the Workers' Compensation Revolving Fund  
3 created under this subdivision (9).

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

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

1 within the scope of the employee's employment giving rise  
2 to the claim.

3 Whenever and to the extent that a State employee  
4 operates a motor vehicle or engages in other activity  
5 covered by self-insurance under this Section, the State of  
6 Illinois shall defend, indemnify, and hold harmless the  
7 employee against any claim in tort filed against the  
8 employee for acts or omissions within the scope of the  
9 employee's employment in any proper judicial forum and not  
10 settled pursuant to this subdivision (11), provided that  
11 this obligation of the State of Illinois shall not exceed a  
12 maximum liability of \$2,000,000 for any single occurrence  
13 in connection with the operation of a motor vehicle or  
14 \$100,000 per person per occurrence for any other single  
15 occurrence, or \$500,000 for any single occurrence in  
16 connection with the provision of medical care by a licensed  
17 physician 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 Court  
21 of Claims and may not be filed or adjudicated in any other  
22 forum. The Attorney General of the State of Illinois or the  
23 Attorney General's designee shall be the attorney with  
24 respect to all public liability self-insurance claims that  
25 are not settled pursuant to this subdivision (11) and  
26 therefore result in litigation. The payment of any award of

1 the Court of Claims entered against the State relating to  
2 any public liability self-insurance claim shall act as a  
3 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 shall be  
13 paid from the Road Fund. The term "employee" as used in  
14 this subdivision (12) has the same meaning as under  
15 subsection (b) of Section 1 of the State Employee  
16 Indemnification Act. Subject to sufficient appropriation,  
17 the Director shall approve payment of any claim, without  
18 regard to fiscal year limitations, presented to the  
19 Director that is supported by a final settlement or final  
20 judgment when the Attorney General and the chief officer of  
21 the public body against whose employee the claim or cause  
22 of action is asserted certify to the Director that the  
23 claim is in accordance with the State Employee  
24 Indemnification Act and that they approve of the payment.  
25 In no event shall an amount in excess of \$150,000 be paid  
26 from this plan to or for the benefit of any claimant.

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

9           Subject to sufficient appropriation, the Director is  
10          authorized to pay any wage claim presented to the Director  
11          that is supported by a final settlement or final judgment  
12          when the chief officer of the State agency employing the  
13          claimant certifies to the Director that the claim is a  
14          valid wage claim and that the fiscal year and lapse period  
15          have expired. Except when the interest owed would be less  
16          than \$5, payment ~~Payment~~ for claims that are properly  
17          submitted and certified as valid by the Director shall  
18          include interest accrued at the rate of 7% per annum from  
19          the forty-fifth day after the claims are received by the  
20          Department or 45 days from the date on which the amount of  
21          payment is agreed upon, whichever is later, until the date  
22          the claims are submitted to the Comptroller for payment.  
23          When the Attorney General has filed an appearance in any  
24          proceeding concerning a wage claim settlement or judgment,  
25          the Attorney General shall certify to the Director that the  
26          wage claim is valid before any payment is made. In no event

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

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

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

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

12 Section 99. Effective date. This Act takes effect January  
13 1, 2012.