



Rep. Frank J. Mautino

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1 AMENDMENT TO SENATE BILL 3430

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3430 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 providing for the purchase of public  
25 liability insurance or for self-insurance for public  
26 liability or for a combination of purchased insurance and

1 self-insurance for public liability (i) covering the State  
2 and drivers of motor vehicles owned, leased, or controlled  
3 by the State of Illinois pursuant to the provisions and  
4 limitations contained in the Illinois Vehicle Code, (ii)  
5 covering other public liability exposures of the State and  
6 its employees within the scope of their employment, and  
7 (iii) covering drivers of motor vehicles not owned, leased,  
8 or controlled by the State but used by a State employee on  
9 State business, in excess of liability covered by an  
10 insurance policy obtained by the owner of the motor vehicle  
11 or in excess of the dollar amounts that the Department  
12 shall determine to be reasonable. Any contract of insurance  
13 let under this Law shall be by bid in accordance with the  
14 procedure set forth in the Illinois Purchasing Act. Any  
15 provisions for self-insurance shall conform to subdivision  
16 (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 ~~Through December 31, 2012, establish~~  
12 rules, procedures, and forms to be used by State agencies  
13 in the administration and payment of workers' compensation  
14 claims. For claims filed prior to July 1, 2013 ~~Through~~  
15 ~~December 31, 2012,~~ the Department shall initially evaluate  
16 and determine the compensability of any injury that is the  
17 subject of a workers' compensation claim and provide for  
18 the administration and payment of such a claim for all  
19 State agencies. For claims filed on or after July 1, 2013,  
20 the Department shall retain responsibility for certain  
21 administrative payments including, but not limited to,  
22 payments to the private vendor contracted to perform  
23 services under subdivision (10b) of this Section, payments  
24 related to travel expenses for employees of the Office of  
25 the Attorney General, and payments to internal Department  
26 staff responsible for the oversight and management of any

1       contract awarded pursuant to subdivision (10b) of this  
2       Section. Through December 31, 2012, the Director may  
3       delegate to any agency with the agreement of the agency  
4       head the responsibility for evaluation, administration,  
5       and payment of that agency's claims. Neither the Department  
6       nor the private vendor contracted to perform services under  
7       subdivision (10b) of this Section shall be responsible for  
8       providing workers' compensation services to State agencies  
9       and universities that maintain self-funded workers'  
10       compensation liability programs.

11       (10a) By April 1 of each year prior to calendar year  
12       2013, the Director must report and provide information to  
13       the State Workers' Compensation Program Advisory Board  
14       concerning the status of the State workers' compensation  
15       program for the next fiscal year. Information that the  
16       Director must provide to the State Workers' Compensation  
17       Program Advisory Board includes, but is not limited to,  
18       documents, reports of negotiations, bid invitations,  
19       requests for proposals, specifications, copies of proposed  
20       and final contracts or agreements, and any other materials  
21       concerning contracts or agreements for the program. By the  
22       first of each month prior to calendar year 2013, the  
23       Director must provide updated, and any new, information to  
24       the State Workers' Compensation Program Advisory Board  
25       until the State workers' compensation program for the next  
26       fiscal year is determined.

1           (10b) No later than January 1, 2013, the chief  
2 procurement officer appointed under paragraph (4) of  
3 subsection (a) of Section 10-20 of the Illinois Procurement  
4 Code (hereinafter "chief procurement officer"), in  
5 consultation with the Department of Central Management  
6 Services, shall procure one or more private vendors to  
7 administer, ~~beginning January 1, 2013,~~ the program  
8 providing payments for workers' compensation liability  
9 with respect to the employees of all State agencies. The  
10 chief procurement officer may procure a single contract  
11 applicable to all State agencies or multiple contracts  
12 applicable to one or more State agencies. If the chief  
13 procurement officer procures a single contract applicable  
14 to all State agencies, then the Department of Central  
15 Management Services shall be designated as the agency that  
16 enters into the contract and shall be responsible for the  
17 contract. If the chief procurement officer procures  
18 multiple contracts applicable to one or more State  
19 agencies, each agency to which the contract applies shall  
20 be designated as the agency that shall enter into the  
21 contract and shall be responsible for the contract. If the  
22 chief procurement officer procures contracts applicable to  
23 an individual State agency, the agency subject to the  
24 contract shall be designated as the agency responsible for  
25 the contract.

26           (10c) The procurement of private vendors for the



1 administration of the workers' compensation program for  
2 State employees is subject to the provisions of the  
3 Illinois Procurement Code and administration by the chief  
4 procurement officer.

5 (10d) Contracts for the procurement of private vendors  
6 for the administration of the workers' compensation  
7 program for State employees shall be based upon, but  
8 limited to, the following criteria: (i) administrative  
9 cost, (ii) service capabilities of the vendor, and (iii)  
10 the compensation (including premiums, fees, or other  
11 charges). A vendor for the administration of the workers'  
12 compensation program for State employees shall provide  
13 services, including, but not limited to:

14 (A) providing a web-based case management system  
15 and provide access to the Office of the Attorney  
16 General;

17 (B) ensuring claims adjusters are available to  
18 provide testimony or information as requested by the  
19 Office of the Attorney General;

20 (C) establishing a preferred provider program for  
21 all State agencies and facilities; and

22 (D) authorizing the payment of medical bills at the  
23 preferred provider discount rate.

24 (10e) By September 15, 2012, the Department of Central  
25 Management Services shall prepare a plan to effectuate the  
26 transfer of responsibility and administration of the

1 workers' compensation program for State employees to the  
2 selected private vendors. The Department shall submit a  
3 copy of the plan to the General Assembly.

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

19 Whenever and to the extent that a State employee  
20 operates a motor vehicle or engages in other activity  
21 covered by self-insurance under this Section, the State of  
22 Illinois shall defend, indemnify, and hold harmless the  
23 employee against any claim in tort filed against the  
24 employee for acts or omissions within the scope of the  
25 employee's employment in any proper judicial forum and not  
26 settled pursuant to this subdivision (11), provided that

1           this obligation of the State of Illinois shall not exceed a  
2           maximum liability of \$2,000,000 for any single occurrence  
3           in connection with the operation of a motor vehicle or  
4           \$100,000 per person per occurrence for any other single  
5           occurrence, or \$500,000 for any single occurrence in  
6           connection with the provision of medical care by a licensed  
7           physician employee.

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

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

1 employees of the Department of Transportation, the  
2 Illinois State Police, and the Secretary of State shall be  
3 paid from the Road Fund. The term "employee" as used in  
4 this subdivision (12) has the same meaning as under  
5 subsection (b) of Section 1 of the State Employee  
6 Indemnification Act. Subject to sufficient appropriation,  
7 the Director shall approve payment of any claim, without  
8 regard to fiscal year limitations, 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  
11 the public body against whose employee the claim or cause  
12 of action is asserted certify to the Director that the  
13 claim is in accordance with the State Employee  
14 Indemnification Act and that they approve of the payment.  
15 In no event shall an amount in excess of \$150,000 be paid  
16 from this plan to or for the benefit of any claimant.

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

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

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

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

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

26 (Source: P.A. 96-928, eff. 6-15-10; 97-18, eff. 6-28-11;

1 97-895, eff. 8-3-12.)

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