



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB1246

by Rep. Dwight Kay

#### SYNOPSIS AS INTRODUCED:

20 ILCS 405/405-105

was 20 ILCS 405/64.1

Amends the Department of Central Management Services Law of the Civil Administrative Code of Illinois. Provides that the Department of Central Management Services shall charge the employing State agency for workers' compensation payments for medical expenses and temporary total disability benefits (now, just for temporary total disability) paid to any employee (now, the Department shall charge the State agency only after the employee has received temporary total disability payments for 120 days if the employee's physician has issued a release to return to work but the employing State agency does not return the employee to work).

LRB098 07856 HLH 37940 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 medical expenses and temporary total disability benefits  
6 paid to any employee ~~after the employee has received~~  
7 ~~temporary total disability payments for 120 days if the~~  
8 ~~employee's treating physician has issued a release to~~  
9 ~~return to work with restrictions and the employee is able~~  
10 ~~to perform modified duty work but the employing State~~  
11 ~~agency or university does not return the employee to work~~  
12 ~~at modified duty. Modified duty shall be duties assigned~~  
13 ~~that may or may not be delineated as part of the duties~~  
14 ~~regularly performed by the employee. Modified duties shall~~  
15 ~~be assigned within the prescribed restrictions established~~  
16 ~~by the treating physician and the physician who performed~~  
17 ~~the independent medical examination.~~ The amount of all  
18 reimbursements shall be deposited into the Workers'  
19 Compensation Revolving Fund which is hereby created as a  
20 revolving fund in the State treasury. In addition to any  
21 other purpose authorized by law, moneys in the Fund shall  
22 be used, subject to appropriation, to pay medical ~~these~~ or  
23 other temporary total disability claims of employees of  
24 State agencies and 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. For claims filed prior to  
7 July 1, 2013, the Department shall initially evaluate and  
8 determine the compensability of any injury that is the  
9 subject of a workers' compensation claim and provide for  
10 the administration and payment of such a claim for all  
11 State agencies. For claims filed on or after July 1, 2013,  
12 the Department shall retain responsibility for certain  
13 administrative payments including, but not limited to,  
14 payments to the private vendor contracted to perform  
15 services under subdivision (10b) of this Section, payments  
16 related to travel expenses for employees of the Office of  
17 the Attorney General, and payments to internal Department  
18 staff responsible for the oversight and management of any  
19 contract awarded pursuant to subdivision (10b) of this  
20 Section. Through December 31, 2012, the Director may  
21 delegate to any agency with the agreement of the agency  
22 head the responsibility for evaluation, administration,  
23 and payment of that agency's claims. Neither the Department  
24 nor the private vendor contracted to perform services under  
25 subdivision (10b) of this Section shall be responsible for  
26 providing workers' compensation services to the Illinois

1 State Toll Highway Authority or to State universities that  
2 maintain self-funded workers' compensation liability  
3 programs.

4 (10a) By April 1 of each year prior to calendar year  
5 2013, the Director must report and provide information to  
6 the State Workers' Compensation Program Advisory Board  
7 concerning the status of the State workers' compensation  
8 program for the next fiscal year. Information that the  
9 Director must provide to the State Workers' Compensation  
10 Program Advisory Board includes, but is not limited to,  
11 documents, reports of negotiations, bid invitations,  
12 requests for proposals, specifications, copies of proposed  
13 and final contracts or agreements, and any other materials  
14 concerning contracts or agreements for the program. By the  
15 first of each month prior to calendar year 2013, the  
16 Director must provide updated, and any new, information to  
17 the State Workers' Compensation Program Advisory Board  
18 until the State workers' compensation program for the next  
19 fiscal year is determined.

20 (10b) No later than January 1, 2013, the chief  
21 procurement officer appointed under paragraph (4) of  
22 subsection (a) of Section 10-20 of the Illinois Procurement  
23 Code (hereinafter "chief procurement officer"), in  
24 consultation with the Department of Central Management  
25 Services, shall procure one or more private vendors to  
26 administer the program providing payments for workers'



1 compensation liability with respect to the employees of all  
2 State agencies. The chief procurement officer may procure a  
3 single contract applicable to all State agencies or  
4 multiple contracts applicable to one or more State  
5 agencies. If the chief procurement officer procures a  
6 single contract applicable to all State agencies, then the  
7 Department of Central Management Services shall be  
8 designated as the agency that enters into the contract and  
9 shall be responsible for the contract. If the chief  
10 procurement officer procures multiple contracts applicable  
11 to one or more State agencies, each agency to which the  
12 contract applies shall be designated as the agency that  
13 shall enter into the contract and shall be responsible for  
14 the contract. If the chief procurement officer procures  
15 contracts applicable to an individual State agency, the  
16 agency subject to the contract shall be designated as the  
17 agency responsible for the contract.

18 (10c) The procurement of private vendors for the  
19 administration of the workers' compensation program for  
20 State employees is subject to the provisions of the  
21 Illinois Procurement Code and administration by the chief  
22 procurement officer.

23 (10d) Contracts for the procurement of private vendors  
24 for the administration of the workers' compensation  
25 program for State employees shall be based upon, but  
26 limited to, the following criteria: (i) administrative

1 cost, (ii) service capabilities of the vendor, and (iii)  
2 the compensation (including premiums, fees, or other  
3 charges). A vendor for the administration of the workers'  
4 compensation program for State employees shall provide  
5 services, including, but not limited to:

6 (A) providing a web-based case management system  
7 and provide access to the Office of the Attorney  
8 General;

9 (B) ensuring claims adjusters are available to  
10 provide testimony or information as requested by the  
11 Office of the Attorney General;

12 (C) establishing a preferred provider program for  
13 all State agencies and facilities; and

14 (D) authorizing the payment of medical bills at the  
15 preferred provider discount rate.

16 (10e) By September 15, 2012, the Department of Central  
17 Management Services shall prepare a plan to effectuate the  
18 transfer of responsibility and administration of the  
19 workers' compensation program for State employees to the  
20 selected private vendors. The Department shall submit a  
21 copy of the plan to the General Assembly.

22 (11) Any plan for public liability self-insurance  
23 implemented under this Section shall provide that (i) the  
24 Department shall attempt to settle and may settle any  
25 public liability claim filed against the State of Illinois  
26 or any public liability claim filed against a State

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

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

26 Any claims against the State of Illinois under a

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

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

1 Director that is supported by a final settlement or final  
2 judgment when the Attorney General and the chief officer of  
3 the public body against whose employee the claim or cause  
4 of action is asserted certify to the Director that the  
5 claim is in accordance with the State Employee  
6 Indemnification Act and that they approve of the payment.  
7 In no event shall an amount in excess of \$150,000 be paid  
8 from this plan to or for the benefit of any claimant.

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

17 Subject to sufficient appropriation, the Director is  
18 authorized to pay any wage claim presented to the Director  
19 that is supported by a final settlement or final judgment  
20 when the chief officer of the State agency employing the  
21 claimant certifies to the Director that the claim is a  
22 valid wage claim and that the fiscal year and lapse period  
23 have expired. Payment for claims that are properly  
24 submitted and certified as valid by the Director shall  
25 include interest accrued at the rate of 7% per annum from  
26 the forty-fifth day after the claims are received by the

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

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

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

18 (Source: P.A. 96-928, eff. 6-15-10; 97-18, eff. 6-28-11;  
19 97-895, eff. 8-3-12; 97-1143, eff. 12-28-12.)