

ENROLLED SENATE
BILL NO. 148

By: Stipe, Easley and Dickerson
of the Senate

and

Glover of the House

An Act relating to mines and mining; amending 45 O.S. 1991, Section 1, which relates to the Oklahoma Mining Commission; deleting reference to certain Act; amending 85 O.S. 1991, Sections 2b and 131, as amended by Section 39 of Enrolled House Bill No. 1002 of the 2nd Extraordinary Session of the 44th Oklahoma Legislature, which relate to workers' compensation coverage for certain public employees and the State Insurance Fund; modifying language; authorizing certain institutions to insure with certain insurance carriers; authorizing the Fund to provide certain insurance coverage; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 45 O.S. 1991, Section 1, is amended to read as follows:

Section 1. A. There is hereby created the Oklahoma Mining Commission. The Commission shall be composed of nine (9) members to be appointed by the Governor with the advice and consent of the Senate.

The Commission shall constitute a body corporate of the State of Oklahoma, and exercise by the Commission of the powers conferred by this act shall be deemed and shall be held to be an essential governmental function of the State of Oklahoma. ~~Appointment of members shall not be subject to any act to be known as the Oklahoma Boards and Commissions Uniform Districting Act.~~ Beginning January 1, 1986, one member shall be appointed for a term of one (1) year; one member shall be appointed for a term of two (2) years; one member shall be appointed for a term of three (3) years; one member shall be appointed for a term of four (4) years; one member shall be appointed for a term of five (5) years; two members shall be appointed for a term of six (6) years; and two members shall be appointed for a term of seven (7) years. Each member shall be a qualified elector of this state.

The membership shall consist of at least one person with a background in engineering or geology; one person with a background in labor or workers' safety; one person with a background in agriculture or soil conservation; one person with a background in transportation; one person with a background in economic development or banking; one person with a background in public utilities; one person with a background in natural resources; and two persons selected at large. All persons appointed to the Commission must be

able to meet, at the time they take the constitutional and statutory oath of office, the provisions in Section 767 of this title, 30 U.S.C. Section 1267(g) and 30 C.F.R. Section 705.

B. The Commission shall meet at least six times annually. A majority of the Commission shall constitute a quorum. Commission members may be removed only for cause.

Whenever a vacancy shall occur, the Governor shall appoint a person to fill the unexpired term of the vacant office. Each member of the Commission shall take and subscribe to the constitutional and statutory oath of office prior to the performance of any duties as a Commission member.

C. The Commission shall reorganize annually by electing a chairman, vice-chairman and secretary from the membership of the Commission who shall perform, for one (1) year from the date of their election, such duties as shall be prescribed by the Commission.

D. The chairman of the Commission or the Director may call a meeting of the Commission at any time and at any place within the state. Only in case of a tie vote shall the Director have the right to vote. Prior to all meetings of the Commission, notice of such meetings shall be in accordance with the applicable state meeting laws.

E. The term "State Mining Board" appearing in the Oklahoma Statutes shall mean the "Oklahoma Mining Commission". The term "Chief Mine Inspector" appearing in the Oklahoma Statutes shall mean "Director of the Department of Mines" in the absence of an appointed Chief Mine Inspector.

SECTION 2. AMENDATORY 85 O.S. 1991, Section 2b, is amended to read as follows:

Section 2b. A. All public entities of this state, their agencies and instrumentalities, authorities and public trusts of which they are beneficiaries shall provide workers' compensation to their employees and elected officials engaged in either governmental or proprietary functions in accordance with this section. ~~Such provision of compensation~~ Compensation or indemnification for compensation shall be paid ~~for~~ out of the funds of such public entities.

B. 1. The Except as otherwise provided, the state and all its institutions of higher education, departments, instrumentalities, institutions and public trusts of which they are beneficiaries shall insure against their liability for workers' compensation with the State Insurance Fund and shall not insure with any other insurance carrier unless the State Insurance Fund refuses to accept the risk when the application for insurance is made, or unless specifically authorized by law.

2. The state and all its institutions of higher education except comprehensive universities, departments, instrumentalities, institutions, and public trusts of which they are beneficiaries the state is a beneficiary may self-insure under rules and regulations promulgated by the State Insurance Fund. Such self-insurance Self-insurance administration may only be obtained through the State Insurance Fund. The state and all its institutions of higher education except comprehensive universities, departments, instrumentalities, institutions, and public trusts so electing to self-insure shall pay premiums ~~quoted~~ set by the State Insurance Fund. The State Insurance Fund shall collect ~~said~~ premiums, pay ~~all~~ claims and provide for excess insurance. All dividends or profits accumulating from ~~such~~ a self-insurance program shall be refunded to the participants on a formula devised by the State Insurance Fund.

~~2.~~ 3. All counties, cities and towns, their instrumentalities and public trusts of which they are beneficiaries shall insure against their liability for workers' compensation with the State Insurance Fund; or through any combination of the following may:

- a. self-insure and make any appropriation of funds to cover their risk~~;~~;
- b. secure reinsurance or excess insurance over and above a self-insurance retention in any manner authorized by subsections B and C of Section 167 of Title 51 of the Oklahoma Statutes~~;~~; or
- c. secure compensation for their employees in the manner provided in the Political Subdivision Tort Claims Act, subsection C of Section 167 of the Oklahoma Statutes.

As used in this section, "city" or "town" includes any public trust or authority of which the city or town is beneficiary.

~~3.~~ 4. Boards of education, their instrumentalities and public trusts of which they are beneficiaries shall insure against their liability for workers' compensation with the State Insurance Fund; or through any combination of the following may:

- a. self-insure and make any appropriation of funds to cover their risk~~;~~;
- b. secure reinsurance or excess insurance over and above a self-insured retention in any manner authorized by subsection B of Section 168 of Title 51 of the Oklahoma Statutes~~;~~; or
- c. insure with other insurance carriers licensed in the State of Oklahoma.

5. Comprehensive universities shall insure against their liability for workers' compensation with the State Insurance Fund; or if it can be demonstrated to the Board of Regents of the comprehensive university prior to the inception date of a workers' compensation policy that the policy will result in a lower cost than one with the State Insurance Fund, the comprehensive university may insure through any combination of the following:

- a. self-insure and make any appropriation of funds to cover their risk, or
- b. insure with other insurance carriers licensed in the State of Oklahoma.

~~B.~~ C. In addition to any other provision of this section, city, county, city-county and public trust hospitals may insure with other insurance carriers licensed in this state if it can be demonstrated to the governing body of ~~said~~ the hospital prior to the inception date of a workers' compensation policy each year that such policy will result in a lower cost than one with the State Insurance Fund.

~~C.~~ D. For purposes of the Workers' Compensation Act, all contracts of employment for state, county, municipal and state funded educational entities and public trusts will be considered to have been entered into in this state regardless of where the work is performed.

~~D.~~ E. Where a person who is employed by the state, a municipality or a county, or by any political subdivisions thereof, and who, while off-duty from ~~said~~ the employment, is employed by a private employer, the private employer alone shall be liable for compensation under the Workers' Compensation Act for any injury of the person or his death arising out of and in the course of employment which occurs during the hours of his actual employment by the private employer. The provisions of Section 11 of this title shall be applicable to private employers specified in this subsection. The provisions of this subsection shall not relieve the state, a municipality or a county, or any political subdivision

thereof, from providing disability benefits to which a person may be entitled pursuant to a pension or retirement plan. Provided, further, the provisions of this subsection shall not preclude an employee or group of employees so employed from providing separate compensation coverage for off-duty employment by a private employer.

SECTION 3. AMENDATORY 85 O.S. 1991, Section 131, as amended by Section 39 of Enrolled House Bill No. 1002 of the 2nd Extraordinary Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 131. There is hereby created and established a fund to be known as "The State Insurance Fund", to be administered by the State Insurance Fund Commissioner, without liability on the part of the state beyond the amount of said fund, for the purpose of insuring employers against liability for compensation under Sections 131 through 151 of this title, and for assuring for the persons entitled thereto compensation provided by the workers' compensation law, and for the further purpose of insuring persons, firms and corporations against loss, expense or liability by reason of bodily injury, death by accident, occupational disability, or occupational disease suffered by employees, for which the insured may be liable or have assumed liability. Said fund may further provide insurance for employers against liability incurred as the result of injuries sustained by employees engaged in employment subject to the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C., Section 901 et seq., or employees engaged in employment subject to Title IV of the Federal Coal Mine Health and Safety Act of 1969 as amended by the Black Lung Benefits Act of 1972, as enacted or as may be amended by the Congress of the United States.

(a) The State Insurance Fund shall be a revolving fund and shall consist of all premiums received and paid into said fund for insurance issued, all property and securities acquired by and through the use of monies belonging to the fund and all interest earned upon monies belonging to the fund and deposited or invested as herein provided.

(b) Said fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in Sections 131 through 151 of this title.

(c) Said fund shall be fairly competitive with other insurance carriers and it is the intent of the Legislature that said fund shall become neither more nor less than self-supporting.

(d) The State Insurance Fund shall report to the Insurance Commissioner no later than the last day of February of each year the amount of premium taxes and fees for which it would be liable if it were operating as a private carrier.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 18th day of May, 1995.

President of the Senate

Passed the House of Representatives the 24th day of May, 1995.

Speaker of the House of
Representatives