HOUSE OF REPRESENTATIVES
Monday, February 22, 1999

House Bill No. 1362

HOUSE BILL NO. 1362 -- By HASTINGS, LIOTTA, SULLIVAN (Leonard), MADDUX, SMITH (Hopper) and NANCE.

An Act relating to workers' compensation; amending 85 O.S. 1991, Section 2b, as last amended by Section 24, Chapter 3, O.S.L. 1996 (85 O.S. Supp. 1998, Section 2b), which relates to workers' compensation coverage for public employees; modifying workers' compensation insurance options for state entities; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 85 O.S. 1991, Section 2b, as last amended by Section 24, Chapter 3, O.S.L. 1996 (85 O.S. Supp. 1998, 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. Compensation or indemnification for compensation shall be paid out of the funds of such public entities.

B. 1. ~~Except as otherwise provided, the~~ The state and all its institutions of higher education, departments, instrumentalities, institutions and public trusts of which they are beneficiaries shall insure against liability for workers' compensation:

a. 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 the state is a beneficiary may self-insure under rules promulgated by the State Insurance Fund. 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 set by the State Insurance Fund. The State Insurance Fund shall collect premiums, pay claims and provide for excess insurance. All dividends or profits accumulating from a self-insurance program shall be refunded to the participants on a formula devised by the State Insurance Fund~~, or

b. by self-insuring and making any appropriation of funds to cover their risk; or

c. by insuring with other insurance carriers licensed in the State of Oklahoma.

~~3.~~ 2. 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,

c. secure compensation for their employees in the manner provided in the Political Subdivision Tort Claims Act, subsection C of Section 167 of Title 51 of the Oklahoma Statutes, or

d. insure with other insurance carriers licensed in the State of Oklahoma.

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

~~4.~~ 3. 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.~~ 4. 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.

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 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.

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.

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 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 2. This act shall become effective July 1, 1999.

SECTION 3. 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.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-18-99 -- DO PASS, As Coauthored.