

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 646

By: Pruitt

AS INTRODUCED

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 certain public employees; clarifying language; requiring purchase of insurance pursuant to the Oklahoma Central Purchasing Act; deleting requirement to obtain certain workers' compensation coverage from the State Insurance Fund; changing entity authorized to administer certain self-insurance programs; deleting definition; eliminating gender distinctions; amending 82 O.S. 1991, Section 1501-502, as amended by Section 219, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1998, Section 3-3-105), which relates to powers and duties of conservation districts; deleting requirement to obtain certain workers' compensation coverage from the State Insurance Fund; repealing 47 O.S. 1991, Sections 2-201 and 376, which relate to authority of the Department of Public Safety to obtain workers' compensation insurance and certain group insurance; 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. 1. 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~~ the public entities.

~~B. 1.~~ 2. Except as otherwise provided, the state and all its institutions of higher education, departments, instrumentalities, institutions, and public trusts of which it or they are beneficiaries shall insure against 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.~~ Insurance obtained pursuant to this paragraph shall be obtained from the lowest and best bidder pursuant to the Oklahoma Central Purchasing Act.

~~2.~~ 3. The state ~~and,~~ all its state institutions of higher education except comprehensive universities, and all state departments, instrumentalities, institutions, and public trusts of which the state is a beneficiary, may self-insure under rules promulgated by the State Insurance Fund Risk Management Administrator. ~~Self-insurance administration may only be obtained through the State Insurance Fund.~~ The state ~~and,~~ all its state institutions of higher education except comprehensive universities, and all state 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~~ Risk Management Administrator.

~~3. B.~~ 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~~ 1. Self-insure and make any appropriation of funds to cover their risk, i

~~b. secure~~ 2. 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;i

~~e. secure~~ 3. Secure compensation for their employees in the manner provided in the Political Subdivision Tort Claims Act;i subsection C of Section 167 of the Oklahoma Statutes, or

~~d. insure~~ 4. 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. C.~~ 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;r or, through any combination of the following, may:

~~a. self-insure~~ 1. Self-insure and make any appropriation of funds to cover their risk;i

~~b. secure~~ 2. 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;i or

~~e. insure~~ 3. Insure with other insurance carriers licensed in the State of Oklahoma.

~~5. D.~~ 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~~ or, through any combination of the following, may:

~~a. self-insure~~ 1. Self-insure and make any appropriation of funds to cover their risk;i or

~~b. insure~~ 2. Insure with other insurance carriers licensed in the State of Oklahoma.

~~C. E.~~ E. 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~~ the policy will result in a lower cost than one with the State Insurance Fund.

~~D. F.~~ F. 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. G.~~ G. 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~~ of the person or ~~his~~ death of the person 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~~ 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. AMENDATORY 82 O.S. 1991, Section 1501-502, as amended by Section 219, Chapter 145, O.S.L. 1993, and as renumbered by Section 359, Chapter 145, O.S.L. 1993 (27A O.S. Supp. 1998, Section 3-3-105), is amended to read as follows:

Section 3-3-105. A. In addition to other powers and duties provided by law, a conservation district and the directors thereof shall have the power and duty to:

1. Obtain such information as may be necessary to the proper carrying out of duties and powers prescribed in the Conservation District Act, by making surveys and investigations relating to the conservation of renewable natural resources, and the preventive and control measures and works of improvement needed; provided, however, that such surveys and investigations shall not be undertaken except in cooperation with the State Conservation Commission or with the government of this state or any of its agencies, or with the United States or any of its agencies;

2. Conduct operations for the conservation of renewable natural resources within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which the conservation of renewable natural resources may be carried out;

3. Carry out preventive and control measures and works of improvement for the conservation of renewable natural resources within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation and changes in use of land on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other

lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands;

4. Cooperate or enter into agreements with, and, within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any owner or occupier of lands within the district, subject to such conditions as the directors may deem necessary to advance the purposes of the Conservation District Act;

5. Obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer and improve any properties acquired; and to:

- a. receive income from such properties and to expend such income in carrying out the purposes and provisions of the Conservation District Act, and
- b. sell, lease or otherwise dispose of any of its property or interests therein, all in furtherance of the purposes and provisions of the Conservation District Act; provided that in all cases when lands or interests therein are deemed by the directors to be necessary for upstream flood control purposes to carry out the purposes of the Conservation District Act and which cannot otherwise be acquired, the district shall be vested with the power of eminent domain and may condemn and acquire such lands as provided by the laws of this state governing the acquisition of lands by railroad corporations;

6. Make available, on such terms as it shall prescribe, to landowners and occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment as will assist such

landowners and occupiers to carry on operations upon their lands for the conservation of renewable natural resources;

7. Construct, improve, repair, operate and maintain such structures as may be necessary or convenient for the performance of any of the operations or activities authorized in the Conservation District Act;

8. Develop resource conservation programs and annual work plans as provided in the Conservation District Act;

9. Acquire by purchase, lease or otherwise, and to administer any project or program concerned with the conservation of renewable natural resources located within its boundaries undertaken by any federal, state or other public agency; and to:

- a. accept donations, gifts and contributions, in money, services, materials or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from any other source, and
- b. use or expend such moneys, services, materials or other contributions in carrying out the purposes of the Conservation District Act, and
- c. enter into contracts and negotiate with any agency of the United States or the State of Oklahoma in any plan related to the conservation of renewable natural resources;

10. Sue and be sued in the name of the district; and to:

- a. have a seal, which seal shall be judicially noticed,
- b. make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and
- c. make, and from time to time amend and repeal, rules and regulations not inconsistent with the Conservation District Act to carry into effect its purposes and powers; and

11. Carry workers' compensation insurance, ~~in its discretion,~~ on any or all its employees, regardless of the nature of the work in which ~~such~~ the employee or employees are engaged, ~~such.~~ The insurance ~~to be carried with the State Insurance Fund, and to~~ shall be paid for by each district out of the funds of ~~such~~ the district.

B. As a condition to the extending of any benefits under the Conservation District Act to or the performance of work upon any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials or otherwise to any operations conferring such benefits and may require land occupiers to enter into and perform such agreements or covenants as to the use of such lands as may be consistent with the purposes of the Conservation District Act.

C. No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the Legislature shall specifically so state.

D. Soil and water conservation district directors have the authority to accept appointment to serve as members of local, municipal, county, regional and state planning agencies, boards, commissions and authorities and districts may participate in the funding thereof and performance of works and projects thereunder.

SECTION 3. REPEALER 47 O.S. 1991, Sections 2-201 and 376, are hereby repealed.

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.

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