

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 HOUSE BILL NO. 2658

By: Sullivan of the House

and

Coffee of the Senate

6
7
8
9 COMMITTEE SUBSTITUTE

10 An Act relating to CompSource; modifying mandate of
11 purchase for certain entities; updating language;
12 modifying process to self-insure for certain
13 entities; extending date of certain conversion;
14 extending date of Task Force on Privatization of
15 CompSource Oklahoma; modifying date of certain
16 report; and providing an effective date.

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

18 SECTION 1. AMENDATORY 85 O.S. 2001, Section 2b, is
19 amended to read as follows:

20 Section 2b. A. 1. All public entities of this state, their
21 agencies and instrumentalities, authorities, and public trusts of
22 which they are beneficiaries shall provide workers' compensation to
23 their employees and elected officials engaged in either governmental
24 or proprietary functions in accordance with this section.

1 Compensation or indemnification for compensation shall be paid out
2 of the funds of the public entities.

3 2. Except as otherwise provided, the state and all its
4 institutions of higher education, departments, instrumentalities,
5 institutions, and public trusts of which it or they are
6 beneficiaries ~~shall~~ may insure against liability for workers'
7 compensation with ~~the State Insurance Fund~~ CompSource Oklahoma and
8 ~~shall not insure with any other insurance carrier unless:~~

- 9 a. ~~the State Insurance Fund refuses to accept the risk~~
10 ~~when the application for insurance is made,~~
- 11 b. ~~specifically authorized by law, or~~
- 12 c. ~~the state entity can obtain workers' compensation~~
13 ~~insurance coverage at the same cost or at a lower cost~~
14 ~~from another insurance carrier licensed in this state.~~
15 ~~Effective November 1, 1999, and for the next two~~
16 ~~fiscal years thereafter, not to exceed fifteen (15)~~
17 ~~state entities each fiscal year may obtain workers'~~
18 ~~compensation insurance coverage pursuant to this~~
19 ~~subparagraph from an insurer other than the State~~
20 ~~Insurance Fund. Beginning with the third fiscal year~~
21 ~~thereafter, all state entities may obtain workers'~~
22 ~~compensation insurance coverage pursuant to this~~
23 ~~subparagraph.~~

24

1 3. The state, all state institutions of higher education except
2 comprehensive universities, and all state departments,
3 instrumentalities, institutions, and public trusts of which the
4 state is a beneficiary, ~~may self insure under rules promulgated by~~
5 ~~the State Insurance Fund. Self insurance administration may only be~~
6 ~~obtained through the State Insurance Fund. The state, all state~~
7 ~~institutions of higher education except comprehensive universities,~~
8 ~~and all state departments, instrumentalities, institutions, and~~
9 ~~public trusts so electing to self insure shall pay premiums set by~~
10 ~~the State Insurance Fund. The State Insurance Fund shall collect~~
11 ~~premiums, pay claims and provide for excess insurance. All~~
12 ~~dividends or profits accumulating from a self insurance program~~
13 ~~shall be refunded to the participants on a formula devised by the~~
14 ~~State Insurance Fund:~~

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

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

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

7 1. Self-insure and make any appropriation of funds to cover
8 their risk;

9 2. Secure reinsurance or excess insurance over and above a
10 self-insurance retention in any manner authorized by subsections B
11 and C of Section 167 of Title 51 of the Oklahoma Statutes;

12 3. Secure compensation for their employees in the manner
13 provided in the Political Subdivision Tort Claims Act; subsection C
14 of Section 167 of Title 51 of the Oklahoma Statutes; or

15 4. Insure with other insurance carriers licensed in the State
16 of Oklahoma.

17 C. Boards of education, their instrumentalities and public
18 trusts of which they are beneficiaries shall insure against their
19 liability for workers' compensation with the State Insurance Fund
20 or, through any combination of the following, may:

21 1. Self-insure and make any appropriation of funds to cover
22 their risk;

1 2. Secure reinsurance or excess insurance over and above a
2 self-insured retention in any manner authorized by subsection B of
3 Section 168 of Title 51 of the Oklahoma Statutes; or

4 3. Insure with other insurance carriers licensed in the State
5 of Oklahoma.

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

13 1. Self-insure and make any appropriation of funds to cover
14 their risk; or

15 2. Insure with other insurance carriers licensed in the State
16 of Oklahoma.

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

24

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

6 G. Where a person who is employed by the state, a municipality,
7 a county, or by any political subdivisions thereof, and who, while
8 off-duty from the employment, is employed by a private employer, the
9 private employer alone shall be liable for compensation under the
10 Workers' Compensation Act for any injury or death of the person
11 arising out of and in the course of employment which occurs during
12 the hours of actual employment by the private employer. The
13 provisions of Section 11 of this title shall be applicable to
14 private employers specified in this subsection. The provisions of
15 this subsection shall not relieve the state, a municipality or a
16 county, or any political subdivision thereof, from providing
17 disability benefits to which a person may be entitled pursuant to a
18 pension or retirement plan. The provisions of this subsection shall
19 not preclude an employee or group of employees so employed from
20 providing separate compensation coverage for off-duty employment by
21 a private employer.

22 SECTION 2. AMENDATORY Section 1, Chapter 263, O.S.L.
23 2009 (85 O.S. Supp. 2009, Section 131c), is amended to read as
24 follows:

1 Section 131c. A. In order to create a stable, predictable,
2 competitive workers' compensation market place in the State of
3 Oklahoma for the benefit of Oklahoma employers and employees, it is
4 the intent of the Legislature that CompSource Oklahoma be converted
5 into a private insurance company no later than December 31, ~~2010~~
6 2011.

7 B. In order to accomplish the conversion of CompSource Oklahoma
8 to a private insurance company, there is hereby created until
9 December 31, ~~2011~~ 2012, the Task Force on Privatization of
10 CompSource Oklahoma. The task force will examine the issues as they
11 relate to privatizing CompSource Oklahoma. The resulting private
12 entity shall operate in the same manner as any domestic insurer in
13 the state and shall be subject to the same laws, taxes, guaranty
14 fund assessments and other regulatory requirements.

15 C. The task force shall consist of nine (9) members as follows:

16 1. The Insurance Commissioner;

17 2. Four members appointed by the President Pro Tempore of the
18 Senate as follows:

19 a. one actuary expert,

20 b. one member who represents CompSource Oklahoma,

21 c. one member of the Senate, and

22 d. one member from a statewide organization that is an
23 advocacy association for business and industry; and

24

1 3. Four members appointed by the Speaker of the House of
2 Representatives as follows:

- 3 a. one member who represents the private insurance
4 industry and is among the top ten writers of workers'
5 compensation premiums in this state,
- 6 b. one member of the House of Representatives,
- 7 c. one member of the Board of Directors of the Oklahoma
8 Property and Casualty Insurance Guaranty Association,
9 and
- 10 d. one member from an independent insurance agents
11 association.

12 D. 1. Members shall serve at the pleasure of their appointing
13 authorities. A vacancy on the task force shall be filled by the
14 original appointing authority.

15 2. Appointments to the task force shall be made by July 1,
16 2009.

17 3. A majority of the members of the task force shall constitute
18 a quorum. A majority of the members present at a meeting may act
19 for the task force.

20 4. The President Pro Tempore of the Senate and the Speaker of
21 the House of Representatives shall each designate a cochair from
22 among the members of the task force.

1 5. The cochairs of the task force shall convene the first
2 meeting of the task force on or before July 15, 2009, at which time
3 a schedule of the meetings shall be determined.

4 E. The task force may use the services of the staffs of the
5 Senate and the House of Representatives and may, as necessary, seek
6 the advice and services of experts in the field of insurance.

7 F. CompSource Oklahoma shall cooperate with the task force in
8 fulfilling its duties and responsibilities including, but not
9 limited to, providing any information, records or reports requested
10 by the task force.

11 G. Members of the task force shall receive no compensation for
12 their service, but shall receive travel reimbursement as follows:

13 1. Legislative members of the task force shall be reimbursed
14 for necessary travel expenses incurred in the performance of their
15 duties in accordance with the provisions of Section 456 of Title 74
16 of the Oklahoma Statutes; and

17 2. Nonlegislative members of the task force shall be reimbursed
18 by their appointing authorities or respective agencies for necessary
19 travel expenses incurred in the performance of their duties in
20 accordance with the State Travel Reimbursement Act.

21 H. Consistent with the intent of the Legislature that
22 CompSource Oklahoma be privatized no later than December 31, ~~2010~~
23 2011, the task force shall identify the steps necessary and develop
24 a plan to convert CompSource Oklahoma into a private insurance

1 company. Such plan shall include, but not be limited to, the
2 following areas:

3 1. Establishment of a residual market mechanism that will
4 protect the interests of all Oklahoma employers and employees,
5 including a plan for rate stabilization to ensure the guaranteed
6 availability of workers' compensation insurance;

7 2. Review of the current financial condition of CompSource
8 Oklahoma;

9 3. Loss portfolio transfer;

10 4. Request for proposal process;

11 5. Consideration of the impact of privatization and the most
12 appropriate way to accommodate current CompSource Oklahoma
13 employees;

14 6. Studying current statutes regarding the responsibilities of
15 CompSource Oklahoma;

16 7. Identification of all necessary statutory changes including,
17 but not limited to, securing funding for volunteer firefighters
18 workers' compensation premiums; and

19 8. Any other issues identified by the task force as necessary
20 to accomplish the privatization of CompSource Oklahoma.

21 I. The task force shall publish and submit to the Speaker of
22 the House of Representatives, the President Pro Tempore of the
23 Senate, and the Governor its findings and recommendations by

24

1 December 1, ~~2009~~ 2010, including recommendations for any resulting
2 legislation.

3 SECTION 3. This act shall become effective November 1, 2010.

4
5 52-2-3793 MRB 3/15/2010 1:12:17 PM

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24