

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 2658

By: Sullivan of the House

and

Coffee of the Senate

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7
8
9 COMMITTEE SUBSTITUTE

10 [CompSource - utilization of private insurance
11 companies - extending date for privatization of
12 CompSource - emergency]

13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

17 Section 2b. A. 1. All public entities of this state, their
18 agencies and instrumentalities, authorities, and public trusts of
19 which they are beneficiaries shall provide workers' compensation to
20 their employees and elected officials engaged in either governmental
21 or proprietary functions in accordance with this section.
22 Compensation or indemnification for compensation shall be paid out
23 of the funds of the public entities.

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

7 a. ~~the State Insurance Fund refuses to accept the risk~~
8 ~~when the application for insurance is made,~~

9 b. ~~specifically authorized by law, or~~

10 c. ~~the state entity can obtain workers' compensation~~
11 ~~insurance coverage at the same cost or at a lower cost~~
12 ~~from another insurance carrier licensed in this state.~~

13 ~~Effective November 1, 1999, and for the next two~~
14 ~~fiscal years thereafter, not to exceed fifteen (15)~~
15 ~~state entities each fiscal year may obtain workers'~~
16 ~~compensation insurance coverage pursuant to this~~
17 ~~subparagraph from an insurer other than the State~~
18 ~~Insurance Fund. Beginning with the third fiscal year~~
19 ~~thereafter, all state entities may obtain workers'~~
20 ~~compensation insurance coverage pursuant to this~~
21 ~~subparagraph.~~

22 3. The state, all state institutions of higher education
23 except comprehensive universities, and all state
24 departments, instrumentalities, institutions, and

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

15 B. All counties, cities and towns, their instrumentalities and
16 public trusts of which they are beneficiaries shall insure against
17 their liability for workers' compensation with ~~the State Insurance~~
18 ~~Fund~~ CompSource Oklahoma or, through any combination of the
19 following, may:

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

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

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

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

6 C. Boards of education, their instrumentalities and public
7 trusts of which they are beneficiaries shall insure against their
8 liability for workers' compensation with ~~the State Insurance Fund~~
9 CompSource Oklahoma or, through any combination of the following,
10 may:

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

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

16 3. Insure with other insurance carriers licensed in the State
17 of Oklahoma.

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

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

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

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

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

17 G. Where a person who is employed by the state, a municipality,
18 a county, or by any political subdivisions thereof, and who, while
19 off-duty from the employment, is employed by a private employer, the
20 private employer alone shall be liable for compensation under the
21 Workers' Compensation Act for any injury or death of the person
22 arising out of and in the course of employment which occurs during
23 the hours of actual employment by the private employer. The
24 provisions of Section 11 of this title shall be applicable to

1 private employers specified in this subsection. The provisions of
2 this subsection shall not relieve the state, a municipality or a
3 county, or any political subdivision thereof, from providing
4 disability benefits to which a person may be entitled pursuant to a
5 pension or retirement plan. The provisions of this subsection shall
6 not preclude an employee or group of employees so employed from
7 providing separate compensation coverage for off-duty employment by
8 a private employer.

9 SECTION 2. AMENDATORY Section 1, Chapter 263, O.S.L.
10 2009 (85 O.S. Supp. 2009, Section 131c), is amended to read as
11 follows:

12 Section 131c. A. In order to create a stable, predictable,
13 competitive workers' compensation market place in the State of
14 Oklahoma for the benefit of Oklahoma employers and employees, it is
15 the intent of the Legislature that CompSource Oklahoma be converted
16 into a private insurance company no later than December 31, ~~2010~~
17 2011.

18 B. In order to accomplish the conversion of CompSource Oklahoma
19 to a private insurance company, there is hereby created until
20 December 31, ~~2011~~ 2012, the Task Force on Privatization of
21 CompSource Oklahoma. The task force will examine the issues as they
22 relate to privatizing CompSource Oklahoma. The resulting private
23 entity shall operate in the same manner as any domestic insurer in
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1 the state and shall be subject to the same laws, taxes, guaranty
2 fund assessments and other regulatory requirements.

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

4 1. The Insurance Commissioner;

5 2. Four members appointed by the President Pro Tempore of the
6 Senate as follows:

7 a. one actuary expert,

8 b. one member who represents CompSource Oklahoma,

9 c. one member of the Senate, and

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

12 3. Four members appointed by the Speaker of the House of
13 Representatives as follows:

14 a. one member who represents the private insurance
15 industry and is among the top ten writers of workers'
16 compensation premiums in this state,

17 b. one member of the House of Representatives,

18 c. one member of the Board of Directors of the Oklahoma
19 Property and Casualty Insurance Guaranty Association,
20 and

21 d. one member from an independent insurance agents
22 association.

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

4 2. Appointments to the task force shall be made by July 1,
5 2009.

6 3. A majority of the members of the task force shall constitute
7 a quorum. A majority of the members present at a meeting may act
8 for the task force.

9 4. The President Pro Tempore of the Senate and the Speaker of
10 the House of Representatives shall each designate a cochair from
11 among the members of the task force.

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

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

18 F. CompSource Oklahoma shall cooperate with the task force in
19 fulfilling its duties and responsibilities including, but not
20 limited to, providing any information, records or reports requested
21 by the task force.

22 G. Members of the task force shall receive no compensation for
23 their service, but shall receive travel reimbursement as follows:
24

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

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

9 H. Consistent with the intent of the Legislature that
10 CompSource Oklahoma be privatized no later than December 31, ~~2010~~
11 2011, the task force shall identify the steps necessary and develop
12 a plan to convert CompSource Oklahoma into a private insurance
13 company or leaving in its current status. Such plan shall include,
14 but not be limited to, the following areas:

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

19 2. Review of the current financial condition of CompSource
20 Oklahoma;

21 3. Loss portfolio transfer;

22 4. Request for proposal process;

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1 5. Consideration of the impact of privatization and the most
2 appropriate way to accommodate current CompSource Oklahoma
3 employees;

4 6. Leaving CompSource in its current status;

5 7. Studying current statutes regarding the responsibilities of
6 CompSource Oklahoma;

7 ~~7.~~ 8. Identification of all necessary statutory changes
8 including, but not limited to, securing funding for volunteer
9 firefighters workers' compensation premiums; and

10 ~~8.~~ 9. Any other issues identified by the task force as
11 necessary to accomplish the privatization of CompSource Oklahoma.

12 I. The task force shall publish and submit to the Speaker of
13 the House of Representatives, the President Pro Tempore of the
14 Senate, and the Governor its supplemental findings and
15 recommendations by December 1, ~~2009~~ 2010, including recommendations
16 for any resulting legislation.

17 SECTION 3. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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