

ENROLLED HOUSE
BILL NO. 2658

By: Sullivan of the House

and

Aldridge of the Senate

An Act relating to CompSource Oklahoma; amending 85 O.S. 2001, Section 2b, which relates to workers' compensation coverage for public employees; allowing for utilization of private insurance companies for certain entities; updating language; modifying process to self-insure for certain entities; amending Section 1, Chapter 263, O.S.L. 2009 (85 O.S. Supp. 2009, Section 131c), which relates to conversion of CompSource Oklahoma; extending date for privatization of CompSource Oklahoma; extending date of Task Force on Privatization of CompSource Oklahoma; and specifying date of supplemental report.

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

SECTION 1. AMENDATORY 85 O.S. 2001, 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 the public entities.

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~~ may insure against liability for workers'

compensation with the State Insurance Fund CompSource Oklahoma and shall not insure with any other insurance carrier unless:

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

3. The state, all 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. Self insurance administration may only be obtained through the State Insurance Fund. The state, all 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.

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 CompSource Oklahoma or, through any combination of the following, may:

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

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;

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

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

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~~ CompSource Oklahoma or, through any combination of the following, may:

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

2. Secure reinsurance or excess insurance over and above a self-insured retention in any manner authorized by subsection B A of Section ~~168~~ 5-117 of Title ~~51~~ 70 of the Oklahoma Statutes; or

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

D. Comprehensive universities shall insure against their liability for workers' compensation with ~~the State Insurance Fund~~ CompSource Oklahoma; 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~~ CompSource Oklahoma or, through any combination of the following, may:

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

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

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

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.

G. Where a person who is employed by the state, a municipality, 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 or death of the person arising out of and in the course of employment which occurs during the hours of 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. 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 Section 1, Chapter 263, O.S.L. 2009 (85 O.S. Supp. 2009, Section 131c), is amended to read as follows:

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

B. In order to accomplish the conversion of CompSource Oklahoma to a private insurance company, there is hereby created until December 31, ~~2011~~ 2012, the Task Force on Privatization of CompSource Oklahoma. The task force will examine the issues as they relate to privatizing CompSource Oklahoma. The resulting private entity shall operate in the same manner as any domestic insurer in

the state and shall be subject to the same laws, taxes, guaranty fund assessments and other regulatory requirements.

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

1. The Insurance Commissioner;

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

a. one actuary expert,

b. one member who represents CompSource Oklahoma,

c. one member of the Senate, and

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

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

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

b. one member of the House of Representatives,

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

d. one member from an independent insurance agents association.

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Loss portfolio transfer;

4. Request for proposal process;

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

6. Leaving CompSource Oklahoma in its current status;

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

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

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

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

Passed the House of Representatives the 18th day of May, 2010.

Presiding Officer of the House
of Representatives

Passed the Senate the 26th day of May, 2010.

Presiding Officer of the Senate