

CS for EHB 2658

THE STATE SENATE  
Wednesday, March 17, 2010

Committee Substitute for  
ENGROSSED

House Bill No. 2658

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 2658 - By:  
Sullivan of the House and Aldridge of the Senate.

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

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'

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

- 3 a. ~~the State Insurance Fund refuses to accept the risk~~  
4 ~~when the application for insurance is made,~~  
5 b. ~~specifically authorized by law, or~~  
6 c. ~~the state entity can obtain workers' compensation~~  
7 ~~insurance coverage at the same cost or at a lower cost~~  
8 ~~from another insurance carrier licensed in this state.~~

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

- 18 3. The state, all state institutions of higher education  
19 except comprehensive universities, and all state  
20 departments, instrumentalities, institutions, and  
21 public trusts of which the state is a beneficiary, may  
22 self-insure under rules promulgated by the State  
23 Insurance Fund. Self-insurance administration may

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

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

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

19           2. Secure reinsurance or excess insurance over and above a  
20 self-insurance retention in any manner authorized by subsections B  
21 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

1 lower cost than one with ~~the State Insurance Fund~~ CompSource  
2 Oklahoma or, through any combination of the following, may:

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

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

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

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

19 G. Where a person who is employed by the state, a municipality,  
20 a county, or by any political subdivisions thereof, and who, while  
21 off-duty from the employment, is employed by a private employer, the  
22 private employer alone shall be liable for compensation under the  
23 Workers' Compensation Act for any injury or death of the person

1 arising out of and in the course of employment which occurs during  
2 the hours of actual employment by the private employer. The  
3 provisions of Section 11 of this title shall be applicable to  
4 private employers specified in this subsection. The provisions of  
5 this subsection shall not relieve the state, a municipality or a  
6 county, or any political subdivision thereof, from providing  
7 disability benefits to which a person may be entitled pursuant to a  
8 pension or retirement plan. The provisions of this subsection shall  
9 not preclude an employee or group of employees so employed from  
10 providing separate compensation coverage for off-duty employment by  
11 a private employer.

12 SECTION 2. AMENDATORY Section 1, Chapter 263, O.S.L.  
13 2009 (85 O.S. Supp. 2009, Section 131c), is amended to read as  
14 follows:

15 Section 131c. A. In order to create a stable, predictable,  
16 competitive workers' compensation market place in the State of  
17 Oklahoma for the benefit of Oklahoma employers and employees, it is  
18 the intent of the Legislature that CompSource Oklahoma be converted  
19 into a private insurance company no later than December 31, ~~2010~~  
20 2011.

21 B. In order to accomplish the conversion of CompSource Oklahoma  
22 to a private insurance company, there is hereby created until  
23 December 31, ~~2011~~ 2012, the Task Force on Privatization of

1 CompSource Oklahoma. The task force will examine the issues as they  
2 relate to privatizing CompSource Oklahoma. The resulting private  
3 entity shall operate in the same manner as any domestic insurer in  
4 the state and shall be subject to the same laws, taxes, guaranty  
5 fund assessments and other regulatory requirements.

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

7 1. The Insurance Commissioner;

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

10 a. one actuary expert,

11 b. one member who represents CompSource Oklahoma,

12 c. one member of the Senate, and

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

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

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

20 b. one member of the House of Representatives,

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

1           d.    one member from an independent insurance agents  
2                    association.

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

6           2.  Appointments to the task force shall be made by July 1,  
7 2009.

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

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

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

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

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

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

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

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

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

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

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

23 3. Loss portfolio transfer;

