

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1046

By: Faught

4  
5 AS INTRODUCED

6 An Act relating to workers' compensation; amending 74  
7 O.S. 2001, Section 840-5.10, as last amended by  
8 Section 1, Chapter 440, O.S.L. 2009 (74 O.S. Supp.  
9 2010, Section 840-5.10), which relates to CompSource  
10 Oklahoma classified and unclassified employees;  
11 providing for transfer of certain employees to  
12 Oklahoma Mutual Insurance Company; amending Section  
13 1, Chapter 17, O.S.L. 2002, as last amended by  
14 Section 5, Chapter 300, O.S.L. 2008 (74 O.S. Supp.  
15 2010, Section 3601.1), which relates to number of  
16 full-time employees at certain agencies; specifying  
17 obsolete provision; amending Section 2, Chapter 463,  
18 O.S.L. 2004, as last amended by Section 1, Chapter  
19 430, O.S.L. 2010 (74 O.S. Supp. 2010, Section  
20 3601.2), which relates to salaries of certain  
21 officers; specifying obsolete provision; specifying  
22 application of certain act; providing for exceptions;  
23 specifying that CompSource Oklahoma shall become an  
24 insurance company; creating the Oklahoma Mutual  
Insurance Company; requiring Insurance Commissioner  
to issue certain certificate; directing Company to  
comply with Insurance Department requirements;  
requiring compliance with Oklahoma Open Meeting Act  
and Oklahoma Open Records Act provisions; providing  
appeal process for certain denials or refusals;  
creating Board of Directors; providing for selection  
or appointment of Board; providing for terms of Board  
members; providing for certain vacancies; providing  
requirements to serve on Board; providing grounds for  
removal of Board members; providing procedure for  
removals; providing for Board member compensation;  
providing for the designation of a chair of the  
Board; requiring certain meetings of the Board;  
specifying authority of the Board to act; limiting  
Company business to workers' compensation insurance;  
providing for the appointment of an auditor;  
providing for the appointment of a President;

1 requiring that Company cooperate with the  
2 Legislature; specifying that Company personnel shall  
3 not be personally liable for any act of the Company;  
4 authorizing Company to set rates; requiring the  
5 hiring of an actuary; providing for the creation of a  
6 fraud investigative program; authorizing  
7 implementation of fraud program; requiring payment of  
8 certain taxes by Company; requiring participation by  
9 Company in certain guaranty associations; providing  
10 for the use of certain revenue by Company; requiring  
11 actuarially sound reserves be maintained; specifying  
12 ratio of net written premiums; requiring certain  
13 annual statements; requiring President to provide  
14 certain periodic reports; requiring publication of  
15 certain independent audit report annually; specifying  
16 that Company is not a state entity; authorizing the  
17 exercise of all rights by Company; specifying that  
18 Company shall be considered a continuation of  
19 CompSource Oklahoma; providing that all property of  
20 CompSource Oklahoma shall belong to the Company;  
21 authorizing Company to enforce certain rights of  
22 CompSource Oklahoma; providing that the rights of  
23 policyholders and creditors of CompSource Oklahoma  
24 shall be preserved under the Company; specifying that  
all pending legal actions against CompSource Oklahoma  
shall continue unimpaired against the Company;  
providing that current Board of CompSource Oklahoma  
shall be the initial Board of Directors of the  
Company; providing procedure for selection of certain  
Board members; specifying that current premium rates  
of CompSource Oklahoma shall be initial rates of  
Company; amending 85 O.S. 2001, Section 132a, as  
amended by Section 1, Chapter 403, O.S.L. 2004 (85  
O.S. Supp. 2010, Section 132a), which relates to  
workers' compensation insurance for volunteer  
firefighters; requiring continued coverage of  
firefighters by Oklahoma Mutual Insurance Company;  
repealing 85 O.S. 2001, Sections 131, 131a, 131b and  
132, as amended by Sections 6, 7, 8 and 9, Chapter  
50, O.S.L. 2002, 133, as last amended by Section 2,  
Chapter 316, O.S.L. 2006, 134, as last amended by  
Section 1, Chapter 77, O.S.L. 2008, 135, 135.1, 136,  
137 and 138, as amended by Sections 12, 13, 14, 15  
and 16, Chapter 50, O.S.L. 2002, 138.2, 139 and 141,  
as amended by Sections 17 and 18, Chapter 50, O.S.L.  
2002, 142, as amended by Section 2, Chapter 145,  
O.S.L. 2002, 142a, 144, 145, 146, 147 and 148, as

1 amended by Sections 19 and 20, Chapter 50, O.S.L.  
2002, 149.1, 149.2, 151 and Section 21, Chapter 426,  
2 O.S.L. 2009 (85 O.S. Supp. 2010, Sections 131, 131a,  
3 131b, 132, 133, 134, 135, 135.1, 136, 137, 138, 139,  
4 141, 142, 147, 148 and 154), which relate to  
CompSource Oklahoma; providing for codification; and  
providing an effective date.

5  
6  
7 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

8 SECTION 1. AMENDATORY 74 O.S. 2001, Section 840-5.10, as  
9 last amended by Section 1, Chapter 440, O.S.L. 2009 (74 O.S. Supp.  
10 2010, Section 840-5.10), is amended to read as follows:

11 Section 840-5.10 A. CompSource Oklahoma shall be under the  
12 Merit System until November 1, 2011. ~~Except as otherwise provided~~  
13 ~~in subsection B of this section, all offices, positions and~~  
14 ~~personnel shall be classified and~~ Effective November 1, 2011,  
15 CompSource Oklahoma shall be a mutual insurance company which shall  
16 be designated the Oklahoma Mutual Insurance Company. Any classified  
17 employee of CompSource Oklahoma on that date may continue employment  
18 as an employee of the Oklahoma Mutual Insurance Company at the  
19 discretion of the Company. Any employee remaining in the employment  
20 of the Company shall no longer be subject to the provisions of the  
21 Merit System of Personnel Administration and rules promulgated  
22 hereunder. ~~This section shall supersede and repeal any and all~~  
23 ~~executive orders issued pursuant to this act to place the agency or~~  
24 ~~its predecessors under the Merit System.~~

1 B. In addition to offices, positions and personnel that are  
2 unclassified pursuant to Section 840-5.5 of this title, the  
3 following offices, positions and personnel shall be in the  
4 unclassified service until November 1, 2011:

5 1. President and Chief Executive Officer;

6 2. Executive Vice President;

7 3. Vice Presidents;

8 4. Executive Secretaries to the President, Executive Vice  
9 President and Vice Presidents;

10 5. Law Clerks and Legal Assistants;

11 6. Special Counsel;

12 7. General Counsel;

13 8. Medical Analysts Supervisor;

14 9. Medical Analysts;

15 10. Field Adjusters;

16 11. Investment Officer;

17 12. Workers' Compensation Insurance Consultants;

18 13. Workers' Compensation Insurance Technicians;

19 14. Workers' Compensation Insurance Adjusters;

20 15. Workers' Compensation Insurance Underwriters;

21 16. Information Systems Personnel;

22 17. Fraud Investigation Specialists;

23 18. Collections Attorneys;

24 19. Premium Auditors; and

1        20. Safety Consultants.

2        C. ~~CompSource Oklahoma may develop a plan for a program for~~  
3 ~~incentive-based compensation for its employees. The plan shall be~~  
4 ~~subject to the review and approval of the Insurance Commissioner~~  
5 Effective November 1, 2011, any unclassified employee, as provided  
6 in subsection B of this section, shall no longer be an employee of  
7 the state. The Oklahoma Mutual Insurance Company may retain such  
8 unclassified employees at the discretion of the Company.

9        D. Effective November 1, 2011, any classified employee who  
10 elects to continue in the employment of the state instead of  
11 remaining with the Company shall remain in the employment of the  
12 state if possible. The Office of Personnel Management shall develop  
13 a plan to accommodate those employees electing to stay in the  
14 employment of the state.

15        SECTION 2.        AMENDATORY        Section 1, Chapter 17, O.S.L.  
16 2008, as last amended by Section 5, Chapter 300, O.S.L. 2008 (74  
17 O.S. Supp. 2010, Section 3601.1), is amended to read as follows:

18        Section 3601.1 A. For purposes of Sections 3601.1 through 3603  
19 of this title, the term "employee" means a full-time employee or any  
20 number of part-time employees whose combined weekly hours of  
21 employment equal those of a full-time employee, but shall not  
22 include temporary employees working on a seasonal basis between May  
23 1 and October 31.

1 B. Beginning July 1, 2008, the maximum number of full-time-  
 2 equivalent employees for each of the following agencies, boards,  
 3 commissions, departments, or programs shall not exceed the numbers  
 4 specified in this section, except as may be authorized pursuant to  
 5 the provisions of Section 3603 of this title.

	MAXIMUM NUMBER OF FULL-TIME-EQUIVALENT EMPLOYEES
9 <del>Board of Managers of the State Insurance Fund</del>	591
10 Oklahoma Employment Security Commission	1150
11 Oklahoma Accountancy Board	11
12 Board of Governors of the Licensed Architects, 13 Landscape Architects and Interior Designers of 14 Oklahoma	4
15 Board of Chiropractic Examiners	3
16 State Board of Cosmetology	16
17 Board of Dentistry	5
18 Oklahoma State Board of Embalmers and Funeral 19 Directors	5
20 State Board of Registration for Professional 21 Engineers and Land Surveyors	10
22 State Board of Medical Licensure and Supervision/ 23 Board of Podiatric Medical Examiners/State 24 Board of Examiners of Perfusionists	29

1	Commission on Marginally Producing Oil and Gas	
2	Wells	5
3	Oklahoma Motor Vehicle Commission	6
4	Oklahoma Board of Nursing	26
5	Oklahoma State Board of Examiners for Nursing	
6	Home Administrators	4
7	Board of Examiners in Optometry	3
8	State Board of Osteopathic Examiners	7
9	Oklahoma Peanut Commission	2
10	Oklahoma State Board of Pharmacy	10
11	State Board of Examiners of Psychologists	2
12	Oklahoma Real Estate Commission	26
13	Board of Examiners for Speech-Language Pathology	
14	and Audiology	2
15	Oklahoma Used Motor Vehicle and Parts Commission	12
16	State Board of Veterinary Medical Examiners	6
17	Oklahoma Wheat Utilization, Research and Market	
18	Development Commission	7
19	Oklahoma Firefighters Pension and Retirement	
20	System	13
21	Oklahoma Police Pension and Retirement System	12
22	Teachers' Retirement System of Oklahoma	52
23	Oklahoma Public Employees Retirement System	63
24	Oklahoma Student Loan Authority	85

1	Oklahoma Industrial Finance Authority/Oklahoma	
2	Development Finance Authority	10
3	State and Education Employees Group Insurance	
4	Board	178
5	Oklahoma Capital Investment Board	4
6	State Board of Licensed Social Workers	1
7	Oklahoma State Employees Benefits Council	38
8	Oklahoma State Banking Department	46
9	Liquefied Petroleum Gas Administration	10

10       C. The duties and compensation of employees, not otherwise  
11 prescribed by law, necessary to perform the duties imposed upon the  
12 Oklahoma Public Employees Retirement System Board of Trustees by law  
13 shall be set by the Board of Trustees.

14       D. Temporary employees of the Oklahoma Used Motor Vehicle and  
15 Parts Commission between the dates of November 1 and January 31  
16 annually shall not be counted toward the maximum number of full-  
17 time-equivalent employees provided for in this section.

18       SECTION 3.        AMENDATORY        Section 2, Chapter 463, O.S.L.  
19 2004, as last amended by Section 1, Chapter 430, O.S.L. 2010 (74  
20 O.S. Supp. 2010, Section 3601.2), is amended to read as follows:

21       Section 3601.2 A. Beginning January 1, 2010, the agency,  
22 board, commission, department or program shall establish the salary  
23 of each of the chief executive officers for which they have  
24 appointing authority. Such salary shall be set between the minimum

1 and maximum of the range specified below, for full-time employees  
 2 only, per annum, payable monthly, pursuant to the limitations  
 3 outlined below:

4 1. If the chief executive officer's salary is below the minimum  
 5 annual salary then it can not be raised to more than the minimum  
 6 annual salary in one (1) fiscal year. If the chief executive  
 7 officer's salary is at or above the minimum annual salary then the  
 8 salary may not be increased above the midpoint in one (1) fiscal  
 9 year.

10 2. Such increases shall not occur more than once in a fiscal  
 11 year; and

12 3. The salary of the incumbent chief executive officer shall  
 13 not be increased if the officer's salary exceeds the maximum of the  
 14 range.

	MINIMUM	MIDPOINT	MAXIMUM
	ANNUAL	ANNUAL	ANNUAL
	SALARY	SALARY	SALARY
18 <del>CompSource Oklahoma</del>	<del>\$86,136.00</del>	<del>\$101,337.00</del>	<del>\$116,536.00</del>
19 Oklahoma Employment			
20 Security Commission	\$93,190.00	\$109,635.00	\$126,080.00
21 Board of Governors of the			
22 Licensed Architects,			
23 Landscape Architects and			

1	Interior Designers of			
2	Oklahoma	\$45,513.00	\$62,757.00	\$80,000.00
3	Board of Chiropractic			
4	Examiners	\$46,788.00	\$55,044.00	\$63,301.00
5	State Board of Cosmetology	\$46,788.00	\$55,044.00	\$63,301.00
6	Board of Dentistry	\$54,956.00	\$64,334.00	\$75,687.00
7	Oklahoma Funeral Board	\$46,788.00	\$55,044.00	\$63,301.00
8	State Board of Registration			
9	for Professional			
10	Engineers and Land			
11	Surveyors	\$55,748.00	\$65,585.00	\$75,424.00
12	State Board of Medical			
13	Licensure and			
14	Supervision, Board of			
15	Podiatric Medical			
16	Examiners/State Board of			
17	Examiners of			
18	Perfusionists	\$67,551.00	\$79,471.00	\$91,392.00
19	Commission on Marginally			
20	Producing Oil and Gas			
21	Wells	\$55,748.00	\$65,585.00	\$75,424.00
22	Oklahoma Motor Vehicle			
23	Commission	\$55,748.00	\$65,585.00	\$75,424.00
24	Oklahoma Board of Nursing	\$67,551.00	\$79,471.00	\$91,392.00

1	Oklahoma State Board of			
2	Examiners for Nursing			
3	Home Administrators	\$46,788.00	\$55,044.00	\$63,301.00
4	State Board of Osteopathic			
5	Examiners	\$54,956.00	\$64,334.00	\$75,687.00
6	Oklahoma Peanut Commission	\$45,513.00	\$55,044.00	\$63,300.00
7	State Board of Examiners of			
8	Psychologists	\$46,788.00	\$55,044.00	\$63,301.00
9	Oklahoma Real Estate			
10	Commission	\$67,551.00	\$79,471.00	\$91,392.00
11	Board of Examiners for			
12	Speech-Language Pathology			
13	and Audiology	\$38,001.00	\$44,706.00	\$51,412.00
14	Oklahoma Used Motor Vehicle			
15	and Parts Commission	\$55,748.00	\$65,585.00	\$75,424.00
16	State Board of Veterinary			
17	Medical Examiners	\$46,788.00	\$55,044.00	\$63,301.00
18	Oklahoma Wheat Utilization,			
19	Research and Market			
20	Development Commission	\$55,748.00	\$65,585.00	\$75,424.00
21	Oklahoma Firefighters			
22	Pension and Retirement			
23	System	\$80,732.00	\$94,980.00	\$109,226.00
24				

1	Oklahoma Police Pension and			
2	Retirement System	\$80,733.00	\$94,981.00	\$109,227.00
3	Teachers' Retirement System			
4	of Oklahoma	\$86,136.00	\$101,337.00	\$116,536.00
5	Oklahoma Public Employees			
6	Retirement System	\$86,136.00	\$101,337.00	\$116,536.00
7	Oklahoma Student Loan			
8	Authority	\$83,790.00	\$101,377.00	\$116,536.00
9	Oklahoma Industrial Finance			
10	Authority	\$80,731.00	\$94,979.00	\$109,225.00
11	State and Education			
12	Employees Group Insurance			
13	Board	\$86,136.00	\$101,337.00	\$116,536.00
14	Oklahoma Capital Investment			
15	Board	\$80,731.00	\$94,979.00	\$109,225.00
16	State Board of Licensed			
17	Social Workers	\$46,788.00	\$55,044.00	\$63,301.00
18	Oklahoma State Employees			
19	Benefits Council	\$80,731.00	\$94,979.00	\$109,225.00
20	Grand River Dam Authority	\$101,437.00	\$119,339.00	\$137,239.00
21	Oklahoma State Banking			
22	Department	\$101,437.00	\$119,339.00	\$137,239.00
23	Liquefied Petroleum Gas			
24	Administration	\$55,748.00	\$65,585.00	\$75,424.00

1 Oklahoma Securities

2 Commission \$101,437.00 \$119,339.00 \$137,239.00

3 B. All increases require certification of the appointing  
4 authority that said action can be implemented for the current fiscal  
5 year and subsequent fiscal year without the need for additional  
6 funding. The agency, board, commission, department or program shall  
7 report increases granted under this section to the Office of  
8 Personnel Management on an annual basis by August 1 of each year.  
9 The Office of Personnel management shall forward a report of such  
10 increases to the Governor, President Pro Tempore of the Senate, and  
11 Speaker of the House of Representatives no later than September 1 of  
12 each year.

13 C. Every two (2) years starting FY-05, the Office of Personnel  
14 Management shall review these salary ranges and report on and make  
15 recommendations on proposed salary ranges in their annual  
16 compensation reports mandated by paragraph 5 of Section 840-1.6A of  
17 this title by no later than December 1.

18 D. Every three (3) years the Legislature shall review the  
19 salary ranges specified in subsection A of this section.

20 SECTION 4. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 125 of Title 85, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. Effective November 1, 2011, CompSource Oklahoma shall  
24 operate as, and exercise the powers of, a domestic mutual insurance

1 company in accordance with Title 36 of the Oklahoma Statutes, and  
2 shall be called the Oklahoma Mutual Insurance Company. The  
3 Insurance Commissioner shall issue a certificate of authority to the  
4 Company to write workers' compensation insurance, as provided by  
5 Title 36 of the Oklahoma Statutes, not later than November 1, 2011,  
6 provided that the Company complies with the requirements of any  
7 domestic mutual insurance company. The Chief Executive Director of  
8 CompSource Oklahoma shall take any measure necessary to accomplish  
9 the transition from CompSource Oklahoma to the Oklahoma Mutual  
10 Insurance Company.

11 B. The Oklahoma Mutual Insurance Company shall be allowed to  
12 remain in the office space of CompSource Oklahoma, but shall be  
13 required to purchase or lease any state-owned facilities of  
14 CompSource Oklahoma then in use.

15 C. The Company shall be subject to the requirements of Title 36  
16 of the Oklahoma Statutes as would any other domestic mutual  
17 insurance company.

18 D. The Oklahoma Mutual Insurance Company shall:

19 1. Serve as a competitive force in the marketplace;

20 2. Guarantee the availability of workers' compensation  
21 insurance in this state; and

22 3. Provide continuing insurance coverage for volunteer  
23 firefighters as provided in Section 132a of Title 85 of the Oklahoma  
24 Statutes, regardless of the profitability of such endeavor.

1 E. Except as otherwise provided by this subsection, the Company  
2 shall be subject to the Oklahoma Open Meeting Act, and the Oklahoma  
3 Open Records Act. The Board of Directors of the Company may hold  
4 closed meetings to consider and refuse to release information  
5 relating to claims, rates, the Company's underwriting guidelines,  
6 and other information that would give advantage to competitors or  
7 bidders.

8 F. A decision by the Company to deny, cancel, or refuse to  
9 renew a policy or risk insured under Title 85 of the Oklahoma  
10 Statutes shall be appealable to the Board not later than thirty (30)  
11 days after the date on which the affected party received actual  
12 notice that the act occurred or that the decision was made. The  
13 Company shall hear the appeal not later than thirty (30) days after  
14 the date on which the request for hearing is made and shall notify  
15 the appellant in writing of the time and place of the hearing not  
16 later than ten (10) days before the date of the hearing. No later  
17 than thirty (30) days after the last day of the hearing, the Board  
18 shall affirm, reverse, or modify the act appealed to the Board. A  
19 hearing under this subsection does not suspend the operation of any  
20 act, ruling, decision, or order of the Company, unless the Board  
21 specifically so orders on a showing by an aggrieved party of:

- 22 1. Immediate, irreparable injury, loss, or damage; and
- 23 2. Probable success on the merits.

24

1 G. A person aggrieved by the decision of the Board may appeal  
2 that decision to the district court. Judicial review under this  
3 section shall be governed by the substantial evidence rule.

4 H. In addition to other rights of the Company under this  
5 article, the Company has the legal rights of a mutual insurance  
6 company operating under Title 36 of the Oklahoma Statutes, and of a  
7 private person in this state, and has the power to sue in its own  
8 name. No procedure is a prerequisite to the exercise of the power  
9 by the Company to sue.

10 I. The Company shall prepare annually a complete and detailed  
11 written report accounting for all funds received and disbursed by  
12 the Company during the preceding fiscal year as required by the  
13 Insurance Commissioner or other applicable law.

14 J. The Company may not be dissolved.

15 SECTION 5. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 125.1 of Title 85, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. The Oklahoma Mutual Insurance Company shall be governed by a  
19 Board of Directors composed of nine (9) members, all of whom shall  
20 be citizens of the state. Five members shall be appointed by the  
21 Governor with the advice and consent of the Senate. The remaining  
22 members shall be elected by the Company's policyholders.

23 B. The members of the Board of Directors shall serve staggered  
24 six-year terms, with the terms of three members expiring July 1 of

1 each odd-numbered year. A member of the Board whose term has  
2 expired shall continue to serve until the member's replacement is  
3 elected by the policyholders or appointed by the Governor, as  
4 applicable.

5 C. The Governor shall fill a vacancy in the appointed Directors  
6 by appointment with the advice and consent of the Senate. A vacancy  
7 in the elected Directors shall be filled as provided by the  
8 Company's bylaws. If a vacancy occurs before the date on which the  
9 vacating member's term is set to expire, the successor member shall  
10 be elected or appointed for a term to expire on the same date as the  
11 vacating member's term.

12 D. A person may not serve as a member of the Board if the  
13 person, an individual related to the person within the second degree  
14 of consanguinity or affinity, or an individual residing in the same  
15 household with the person:

16 1. Is registered or licensed under Title 36 of the Oklahoma  
17 Statutes, or is required to be registered or licensed under Title 36  
18 of the Oklahoma Statutes;

19 2. Is employed by or acts as a consultant to a person  
20 registered or licensed under Title 36 of the Oklahoma Statutes, or  
21 required to be registered or licensed under Title 36 of the Oklahoma  
22 Statutes;

23 3. Owns, controls, has a financial interest in, or participates  
24 in the management of an organization registered or licensed under

1 Title 36 of the Oklahoma Statutes, or required to be registered or  
2 licensed under Title 36 of the Oklahoma Statutes;

3 4. Receives a substantial tangible benefit from the Company; or

4 5. Is an officer, employee, or consultant of an association in  
5 the field of insurance.

6 E. It shall be a ground for removal from the Board if a member:

7 1. Does not have at the time of appointment the qualifications  
8 required by this section;

9 2. Does not maintain during service on the Board the  
10 qualifications required by this section;

11 3. Cannot because of illness or disability discharge the  
12 member's duties for a substantial part of the term for which the  
13 member is appointed; or

14 4. Is absent from more than one-half (1/2) of the regularly  
15 scheduled Board meetings that the member is eligible to attend  
16 during a calendar year.

17 F. The validity of an action of the Board shall not be affected  
18 by the fact that it is taken when a ground for removal of a Board  
19 member exists.

20 G. If the President has knowledge that a potential ground for  
21 removal exists, the President shall notify the chair of the Board of  
22 the potential ground. If the potential ground for removal involves  
23 an appointed Board member, the chair shall then notify the Governor  
24 and the Attorney General that a potential ground for removal exists.

1 If the potential ground for removal involves the chair, the  
2 President shall notify the next highest officer of the Board, who  
3 shall notify the Governor and the Attorney General that a potential  
4 ground for removal exists. If the potential ground for removal  
5 involves a Board member elected by the policyholders, the Board  
6 shall act on the potential ground for removal as provided by the  
7 Company's bylaws.

8 H. Subsection D of this section shall not prohibit a person who  
9 is only a policyholder or a consumer of insurance or insurance  
10 products from serving as a member of the Board.

11 I. A person who is ineligible to serve on the Board under  
12 subsection D of this section shall not serve as a member of the  
13 Board for one (1) year after the date on which the condition that  
14 makes the person ineligible ends.

15 J. Each member shall receive fees for service on the Board  
16 commensurate with industry standards and actual and necessary travel  
17 expenses and expenses incurred in the performance of the member's  
18 duties as a member.

19 K. The Governor shall designate a member of the Board as the  
20 chair of the Board to serve in that capacity at the pleasure of the  
21 Board. The members of the Board shall elect annually any other  
22 officers the Board considers necessary for the performance of its  
23 duties. The Board may create committees and subcommittees.

24

1 L. The Board shall hold meetings at least once each calendar  
2 quarter and at other times at the call of the chair and at times  
3 established in the Company's bylaws. Special meetings may be called  
4 by any two members of the Board on two (2) days notice.

5 M. Five Board members constitute a quorum.

6 N. The Board shall maintain the principal office of the Company  
7 in Oklahoma County, Oklahoma.

8 SECTION 6. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 125.2 of Title 85, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. The Oklahoma Mutual Insurance Company Board of Directors has  
12 full power, authority, and jurisdiction over the Company. The Board  
13 may perform all acts necessary or convenient in the administration  
14 of the Company or in connection with the insurance business to be  
15 carried on by the Company. In this regard, the Board shall function  
16 in all aspects as a governing body of a domestic mutual insurance  
17 company. The Board shall:

18 1. Provide for the delivery in this state of workers'  
19 compensation insurance and for the transaction of workers'  
20 compensation insurance business to the same extent as any other  
21 insurance carrier transacting workers' compensation insurance  
22 business in this state;

23 2. Propose rates for workers' compensation insurance issued by  
24 the Company; and

1           3. Exercise any other authority necessary to conduct a workers'  
2 compensation insurance business.

3           B. The Company shall not have affiliates, interlocking boards  
4 of directors, spinoffs, or subsidiaries that write lines of  
5 insurance other than workers' compensation insurance.

6           C. The Board shall appoint an internal auditor. The internal  
7 auditor serves at the pleasure of the Board.

8           D. The Board shall appoint a President who shall serve at the  
9 pleasure of the Board. The President shall have proven successful  
10 experience as an executive at the general management level in the  
11 business of insurance. The President shall receive compensation as  
12 set by the Board.

13           E. The Company shall provide requested information to  
14 appropriate legislative committees in the manner requested by those  
15 committees.

16           SECTION 7.           NEW LAW           A new section of law to be codified  
17 in the Oklahoma Statutes as Section 125.3 of Title 85, unless there  
18 is created a duplication in numbering, reads as follows:

19           Neither a member of the Board of Directors of the Oklahoma  
20 Mutual Insurance Company nor the President or any officer or  
21 employee of the Company shall be personally liable in the person's  
22 private capacity for any act performed or for any contract or other  
23 obligation entered into or undertaken in an official capacity in  
24 good faith and without intent to defraud, in connection with the

1 administration, management, or conduct of the Company, its business,  
2 or other related affairs.

3 SECTION 8. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 125.4 of Title 85, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Except as otherwise provided by this subsection, the Board  
7 of Directors of the Oklahoma Mutual Insurance Company shall have  
8 full power and authority to propose rates to be charged by the  
9 Company for insurance. The Board shall engage the services of an  
10 independent actuary who is a member in good standing with the  
11 Casualty Actuarial Society or the American Academy of Actuaries to  
12 develop and recommend actuarially sound rates. The Company shall be  
13 subject to the requirements of Title 36 of the Oklahoma Statutes and  
14 shall include the recommendations of its independent actuary as part  
15 of its filing under that title.

16 B. Rates shall be set in amounts sufficient, when invested, to:

- 17 1. Carry all claims to maturity;  
18 2. Meet the reasonable expenses of conducting the business of  
19 the Company; and  
20 3. Maintain a reasonable surplus.

21 SECTION 9. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 125.5 of Title 85, unless there  
23 is created a duplication in numbering, reads as follows:

24

1       A. The Oklahoma Mutual Insurance Company shall develop and  
2 implement a program to identify and investigate fraud and violations  
3 of this code relating to workers' compensation insurance by an  
4 applicant, policyholder, claimant, agent, insurer, health care  
5 provider, or other person. The Company shall cooperate with the  
6 Workers' Compensation Court to compile and maintain information  
7 necessary to detect practices or patterns of conduct that violate  
8 Title 85 of the Oklahoma Statutes relating to workers' compensation.

9       B. The Company may conduct investigations of cases of suspected  
10 fraud and violations of this title relating to workers' compensation  
11 insurance. The Company may:

12       1. Coordinate its investigations with those conducted by the  
13 Court to avoid duplication of efforts; and

14       2. Refer cases that are not otherwise resolved by the Company  
15 to the Court to:

16           a. perform any further investigations that are necessary  
17               under the circumstances,

18           b. conduct administrative violation proceedings, and

19           c. assess and collect penalties and restitution.

20       C. Restitution collected under subsection B of this section  
21 shall be paid to the Company.

22       D. The Board, Company, and employees of the Company shall not  
23 be liable in a civil action for any action made in good faith in the  
24 execution of duties under this section, including, but not limited

1 to, the identification and referral of a person for investigation  
2 and prosecution for a possible administrative violation or criminal  
3 offense.

4 SECTION 10. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 125.6 of Title 85, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. The Oklahoma Mutual Insurance Company shall pay premium  
8 taxes, maintenance taxes, and any other tax applicable to a domestic  
9 mutual insurance company as provided in the Oklahoma Statutes in the  
10 same manner as a domestic mutual insurance carrier authorized by the  
11 Insurance Department to write workers' compensation insurance in  
12 this state.

13 B. The Company shall pay taxes and fees or any payments due in  
14 lieu of taxes in the same manner as a domestic mutual insurance  
15 carrier authorized and admitted by the Department to engage in the  
16 business of insurance in this state under a certificate of authority  
17 that includes authorization to write workers' compensation  
18 insurance.

19 C. The Company shall be a member of and shall be protected by  
20 the Oklahoma Life and Health Insurance Guaranty Association. The  
21 Company shall be subject to assessment under applicable statutes.

22 D. Notwithstanding any other provision of this section, the  
23 Company is only liable for assessments by the Oklahoma Life and  
24 Health Insurance Guaranty Association, and that association, with

1 respect to an insolvency of the Company, shall only be liable for a  
2 claim with a date of injury that occurs after November 1, 2011.

3 SECTION 11. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 125.7 of Title 85, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. All revenues, monies, and assets of the Oklahoma Mutual  
7 Insurance Company belong solely to the Company and shall be governed  
8 by the laws applicable to domestic mutual insurance companies. The  
9 state covenants with the policyholders of the Company, persons  
10 receiving workers' compensation benefits, and the Company's  
11 creditors that the state will not borrow, appropriate, or direct  
12 payments from those revenues, monies, or assets for any purpose.  
13 The state has no liability or responsibility to the policyholders,  
14 persons receiving workers' compensation benefits, or the creditors  
15 of the Company if the Company is placed in conservatorship or  
16 receivership, or insolvent.

17 B. The Company shall establish and maintain reserves for losses  
18 on an actuarially sound basis in accordance with requirements as  
19 provided in Title 36 of the Oklahoma Statutes.

20 C. The Company shall maintain a ratio of net written premiums  
21 on policies written after reinsurance to surplus of not more than  
22 three to one.

23 D. The Company may pay cash dividends or allow a credit on  
24 renewal premium for policyholders insured with the Company other

1 than a policyholder insured under Title 85 of the Oklahoma Statutes,  
2 in accordance with criteria approved by the Board, which may  
3 consider the policyholder's safety record and performance. A  
4 dividend or credit requires prior approval of the Insurance  
5 Commissioner.

6 E. The Company shall file annual statements with the Insurance  
7 Department and the Commissioner in the same manner as required of  
8 other workers' compensation insurance carriers, and the Insurance  
9 Commissioner shall include a report on the Company's condition in  
10 the Commissioner's annual report.

11 SECTION 12. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 125.8 of Title 85, unless there  
13 is created a duplication in numbering, reads as follows:

14 The President of the Oklahoma Mutual Insurance Company shall  
15 make periodic reports to the Board with regard to the status of the  
16 Company and its investments.

17 SECTION 13. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 125.9 of Title 85, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. The Board of Directors of the Oklahoma Mutual Insurance  
21 Company shall publish an independently audited report analyzing the  
22 Company's activities and fiscal condition during the preceding  
23 fiscal year and shall file the report with the Insurance Department.  
24

1 The Board shall file the audited report as required by law for  
2 submission simultaneously with its annual financial report.

3 B. The Company shall file with the Workers' Compensation Court  
4 and the Department all reports required of other workers'  
5 compensation insurers.

6 SECTION 14. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 125.10 of Title 85, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. The Oklahoma Mutual Insurance Company shall be an insurance  
10 company for purposes of the Workers' Compensation Act.

11 B. All regulatory authority granted to the Insurance  
12 Commissioner relating to a mutual insurance company is applicable to  
13 the Company.

14 C. The Company is not a state agency.

15 SECTION 15. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 125.11 of Title 85, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. The Oklahoma Mutual Insurance Company may exercise all the  
19 rights, privileges, powers, and authority of any other mutual  
20 insurance company organized to transact workers' compensation  
21 insurance business in this state, subject to the requirements of  
22 Title 36 of the Oklahoma Statutes. Effective November 1, 2011:

23 1. The Company shall be considered to be a continuation of  
24 CompSource Oklahoma; and

1           2. The Company shall be vested with all property and control of  
2 that fund.

3           B. The Oklahoma Mutual Insurance Company may enforce all  
4 contract and statutory rights of CompSource Oklahoma.

5           SECTION 16.           NEW LAW           A new section of law to be codified  
6 in the Oklahoma Statutes as Section 125.12 of Title 85, unless there  
7 is created a duplication in numbering, reads as follows:

8           A. Each debt, claim, and cause of action of CompSource  
9 Oklahoma, and each property right, privilege, franchise, or other  
10 interest of CompSource Oklahoma, remains the property of the  
11 Oklahoma Mutual Insurance Company.

12           B. The rights of all policyholders and creditors and the  
13 standing of all claims under CompSource Oklahoma shall be preserved  
14 unimpaired under the Oklahoma Mutual Insurance Company.

15           C. Each debt, liability, and duty of CompSource Oklahoma  
16 becomes a debt, liability, or duty of the Oklahoma Mutual Insurance  
17 Company and may be enforced against the Oklahoma Mutual Insurance  
18 Company as if it were incurred or contracted by the Company.

19           SECTION 17.           NEW LAW           A new section of law to be codified  
20 in the Oklahoma Statutes as Section 125.13 of Title 85, unless there  
21 is created a duplication in numbering, reads as follows:

22           A cause of action or similar proceeding to which CompSource  
23 Oklahoma was a party pending on November 1, 2011:

24

- 1        1. Is not affected by the establishment of the Oklahoma Mutual  
2 Insurance Company;
- 3        2. May be continued to be prosecuted by or against the Company;  
4 and
- 5        3. Continues to be governed by and conducted under the  
6 requirements of Title 36 of the Oklahoma Statutes, as those  
7 requirements existed before the effective date of this act, and the  
8 applicable bylaws, rules, and regulations of CompSource Oklahoma.

9        SECTION 18.        NEW LAW        A new section of law to be codified  
10 in the Oklahoma Statutes as Section 125.14 of Title 85, unless there  
11 is created a duplication in numbering, reads as follows:

12        A. The members of the Board of Managers of CompSource Oklahoma  
13 who are serving on the effective date of this act shall serve as the  
14 initial Board of Directors of the Oklahoma Mutual Insurance Company.  
15 Board members who are qualified to serve on the effective date of  
16 this act may serve out their initial terms. The terms of the  
17 initial Board members shall be extended from February 1 to July 1 of  
18 their respective expiring years.

19        B. Before July 1, 2012, the Company's initial Board of  
20 Directors shall draw lots to determine which four positions on the  
21 Board shall be converted to elected Board positions. The drawing by  
22 lot shall be conducted in a manner to ensure that not more than two  
23 Board positions appointed to terms expiring in the same year will be  
24 converted to elected positions.

1 C. On or before July 1, 2012, the Company shall hold its first  
2 meeting of the policyholders. At that meeting the policyholders  
3 shall elect four directors. The method of election shall be  
4 specified in the Company's bylaws.

5 D. The remaining five directors from the initial Board of  
6 Directors shall constitute the appointed directors.

7 E. The bylaws and Board policies of the fund on the effective  
8 date of this act become the bylaws and Board policies of the Company  
9 until amended or revised by the Company's Board.

10 SECTION 19. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 125.15 of Title 85, unless there  
12 is created a duplication in numbering, reads as follows:

13 The premium rates on file with the Insurance Department on the  
14 effective date of this act for CompSource Oklahoma shall be the  
15 initial premium rates for the Oklahoma Mutual Insurance Company.

16 SECTION 20. AMENDATORY 85 O.S. 2001, Section 132a, as  
17 amended by Section 1, Chapter 403, O.S.L. 2004 (85 O.S. Supp. 2010,  
18 Section 132a), is amended to read as follows:

19 Section 132a. A. 1. Volunteer fire departments organized  
20 pursuant to state law may obtain workers' compensation insurance for  
21 volunteer firefighters through the Volunteer Firefighter Group  
22 Insurance Pool pursuant to requirements established by ~~CompSource~~  
23 the Oklahoma Mutual Insurance Company which shall administer the  
24 Pool. For the premium set by ~~CompSource~~ the Oklahoma Mutual

1 Insurance Company, the state shall provide Fifty-five Dollars  
2 (\$55.00) per firefighter per year. Except as otherwise provided by  
3 subsection D of this section, the total amount paid by the state  
4 shall not exceed Three Hundred Twenty Thousand Three Hundred Thirty-  
5 eight Dollars (\$320,338.00) per year or so much thereof as may be  
6 necessary to fund the Volunteer Firefighter Group Insurance Pool.

7 2. ~~CompSource~~ The Oklahoma Mutual Insurance Company shall  
8 collect the premium from state agencies, public trusts and other  
9 instrumentalities of the state. Any funds received by ~~CompSource~~  
10 the Oklahoma Mutual Insurance Company from any state agency, public  
11 trust, or other instrumentality for purposes of workers'  
12 compensation insurance pursuant to this section shall be deposited  
13 to the credit of the Volunteer Firefighter Group Insurance Pool.  
14 ~~CompSource~~ The Oklahoma Mutual Insurance Company shall collect  
15 premiums, pay claims, and provide for excess insurance as needed.

16 B. ~~CompSource~~ The Oklahoma Mutual Insurance Company shall  
17 report, annually, to the Governor, the Speaker of the Oklahoma House  
18 of Representatives, and the President Pro Tempore of the State  
19 Senate the number of enrollees in the Volunteer Firefighter Group  
20 Insurance Pool, and the amount of any anticipated surplus or  
21 deficiency of the Pool; and shall also provide to the Governor, the  
22 Speaker of the Oklahoma House of Representatives and the President  
23 Pro Tempore of the State Senate sixty (60) days advance notice of  
24

1 any proposed change in rates for the Volunteer Firefighter Group  
2 Insurance Pool.

3 C. The amount of claims paid, claim expenses, underwriting  
4 losses, loss ratio, or any other financial aspect of the Volunteer  
5 Firefighter Group Insurance Pool shall not be considered when  
6 determining or considering bids for the amount of any premiums,  
7 rates, or expenses owed by, or any discounts, rebates, dividends, or  
8 other financial benefits owed to any other policyholder of  
9 ~~CompSource~~ the Oklahoma Mutual Insurance Company.

10 D. Except as otherwise provided by law, any increase in the  
11 state payment rate for volunteer firefighters under the Volunteer  
12 Firefighter Group Insurance Pool shall not exceed five percent (5%)  
13 per annum. Any proposed change in rates for the Volunteer  
14 Firefighter Group Insurance Pool must be approved by the ~~Board of~~  
15 ~~Managers of CompSource~~ the Oklahoma Mutual Insurance Company with  
16 notice provided pursuant to subsection B of this section.

17 ~~CompSource~~ The Oklahoma Mutual Insurance Company shall not increase  
18 premiums for the Volunteer Firefighter Group Insurance Pool more  
19 than once per annum.

20 E. For purposes of this section, the term "volunteer fire  
21 departments" includes those volunteer fire departments which have  
22 authorized voluntary or uncompensated workers rendering services as  
23 firefighters and are created by statute pursuant to Section 592 of  
24 Title 18 of the Oklahoma Statutes, Sections 29-201 through ~~29-205~~

1 29-204 of Title 11 of the Oklahoma Statutes, and those defined by  
2 Section 351 of Title 19 of the Oklahoma Statutes.

3 SECTION 21. REPEALER 85 O.S. 2001, Sections 131, 131a,  
4 131b and 132, as amended by Sections 6, 7, 8 and 9, Chapter 50,  
5 O.S.L. 2002, 133, as last amended by Section 2, Chapter 316, O.S.L.  
6 2006, 134, as last amended by Section 1, Chapter 77, O.S.L. 2008,  
7 135, 135.1, 136, 137 and 138, as amended by Sections 12, 13, 14, 15  
8 and 16, Chapter 50, O.S.L. 2002, 138.2, 139 and 141, as amended by  
9 Sections 17 and 18, Chapter 50, O.S.L. 2002, 142, as amended by  
10 Section 2, Chapter 145, O.S.L. 2002, 142a, 144, 145, 146, 147 and  
11 148, as amended by Sections 19 and 20, Chapter 50, O.S.L. 2002,  
12 149.1, 149.2, 151 and Section 21, Chapter 426, O.S.L. 2009 (85 O.S.  
13 Supp. 2010, Sections 131, 131a, 131b, 132, 133, 134, 135, 135.1,  
14 136, 137, 138, 139, 141, 142, 147, 148 and 154), are hereby  
15 repealed.

16 SECTION 22. This act shall become effective November 1, 2011.

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