

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Bradford**

A Bill

SENATE BILL 456

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 23-67-204 TO WITHDRAW THE
9 ADMINISTRATION OF THE ARKANSAS WORKERS_ COMPENSATION
10 INSURANCE PLAN FROM THE EXISTING PLAN ADMINISTRATOR FOR
11 THE PURPOSE OF PROCURING SUCH SERVICES ON A COMPETITIVE
12 BID BASIS; TO CREATE WITHIN THE PLAN AN ALTERNATE
13 PREFERRED PLAN; TO IMPLEMENT MEASURES TO IMPROVE THE PLAN;
14 TO PROVIDE FUNDING TO THE INSURANCE DEPARTMENT FROM
15 APPROPRIATE FEES; AND FOR OTHER PURPOSES."

Subtitle

18 "AN ACT TO REVISE THE ARKANSAS WORKERS_ COMPENSATION
19 INSURANCE PLAN."

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23 SECTION 1. Arkansas Code 23-67-204 is amended to read as follows:
24 "23-67-204. Plan for coverage.

25 (a) The Arkansas Workers_ Compensation Insurance Plan shall give
26 consideration to:

- 27 (1) The need for adequate and readily accessible coverage;
- 28 (2) Optional methods of improving the market affected;
- 29 (3) The need for reasonable underwriting standards;
- 30 (4) The need for adequate supervisory and servicing procedures to
31 ensure proper operation of the plan;
- 32 (5) The need to establish procedures that will have minimum
33 interference with the voluntary market;
- 34 (6) Distributing the obligations imposed by the plan and any
35 profits or losses experienced by the plan equitably and efficiently among the

1 participating insurers; and

2 (7) Establishing procedures for applicants and participants to
3 have their grievances reviewed.

4 (b) The plan shall provide for the issuance of a policy covering the
5 entire liability of the employer as to the business for which workers_
6 compensation insurance has been rejected. *Nothing in this paragraph (b) shall*
7 *modify or repeal the provisions of Arkansas Code 23-92-315(3).*

8 (c) The rates and supplementary rate information of the Arkansas
9 Workers_ Compensation Insurance Plan shall meet the standards specified in §
10 23-67-108.

11 (d) The plan may obtain reinsurance for any part or all of its risks.

12 (e)(1) The commissioner, at his discretion, is authorized to delegate
13 all, or any part of the commissioner's responsibility to establish and operate
14 the plan; provided however, that any such plan, or plan of operation, and any
15 amendments thereto must receive the prior approval of the commissioner.

16 (2) Any person or entity to whom the establishment,
17 implementation, or operation of the plan is delegated pursuant to this
18 subsection shall file with the commissioner all policy forms, forms, rates, or
19 supplementary rate information necessary to effectuate the plan.

20 (3) *In delegating all or part of the commissioner's*
21 *responsibility, the commissioner shall not approve any plan or filing that*
22 *abrogates or restricts his authority to select the plan administrator or*
23 *servicing carriers. The commissioner shall use competitive bidding to select*
24 *the organizations to whom the responsibility shall be delegated. If the*
25 *administration of the plan is delegated, the plan administrator shall have an*
26 *office in Arkansas to provide the plan services delegated. Servicing carriers*
27 *shall be selected by the commissioner on a competitive basis. The*
28 *commissioner shall encourage additional carriers and a combination of*
29 *carriers, and claim, safety, and other service organizations as servicing*
30 *carriers to provide the best service economically available.*

31 (f) (1) Within the Arkansas Workers_ Compensation Insurance Plan the
32 commissioner shall create an alternate preferred plan. The following insureds
33 shall be eligible for the alternate preferred plan:

34 (A) insureds who have carried workers_ compensation for at
35 least four (4) years and have experienced modifications of one hundred (100)

1 or less; and

2 (B) small risks that are not eligible for an experience
3 rating, but that are otherwise qualified, if the insured has a proven three-
4 year loss ratio of thirty-three percent (33%) or less.

5 (2) The alternate preferred plan shall have a surcharge of
6 fifteen (15) percentage points less than approved by the commissioner for the
7 regular basic plan. The preferred plan charge shall not be lower than manual
8 rates before surcharges approved by the commissioner.

9 (g) In order to operate the Arkansas Workers_ Compensation Insurance
10 Plan on a sound basis and provide insureds, who have a much worse than average
11 experience, incentives to improve, the commissioner shall establish actuarial-
12 based surcharges on insureds with experience modifications exceeding one
13 hundred twenty-five (125) and insureds with a three-year experience period
14 loss ratios exceeding one hundred percent (100%).

15 (h) *The commissioner shall establish a performance plan with incentives*
16 *and penalties to improve servicing carrier performance. The performance plan*
17 *shall provide for up to thirty-three percent (33%) of the servicing carrier's*
18 *remuneration to be based on performance. The servicing carrier performance*
19 *plan shall provide on an annual basis for penalties on carriers performing*
20 *below average to the extent of their under-performance up to thirty-three*
21 *percent (33%) of their remuneration. These penalties shall be distributed as*
22 *incentives to carriers performing above average up to their thirty-three*
23 *percent (33%) of their remuneration.*

24 (i) For a reasonable additional charge, the Arkansas Workers'
25 Compensation Insurance Plan shall provide deposit and payment plans that do
26 not create an undue burden on the plan. *The commissioner shall provide for*
27 *implementation of deductibles with reasonable guidelines to encourage insureds*
28 *to promote safety and control costs.*

29 (j) The Workers_ Compensation Insurance Plan shall include measures to:

30 (1) ensure that servicing carriers or organizations give prompt
31 attention and response to insureds, claimants, and others for experience
32 modification data, claims, billings, bindings, and other service requests;

33 (2) ensure that services included in the plan are provided
34 effectively, efficiently, and promptly; and

35 (3) improve the administration and operation of the plan so that

1 it does not burden voluntary insureds.

2 (k) The commissioner may retain a portion of fees and charges which
3 shall be used by the department for administering the Arkansas Workers'
4 Compensation Insurance Plan."

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6 SECTION 2. (a) The provisions of this act requiring competitive bidding
7 and requiring that the plan administrator have an office located in Arkansas
8 shall be implemented by January 1, 1994.

9 (b) Any existing contract for services which was not issued pursuant to
10 the competitive bidding required by this act shall not be renewed for any
11 period beyond January 1, 1994.

12 (c) All other provisions of this act shall be implemented by July 1,
13 1993.

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15 SECTION 3. All provisions of this act of a general and permanent nature
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
17 Revision Commission shall incorporate the same in the Code.

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19 SECTION 4. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

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25 SECTION 5. All laws and parts of laws in conflict with this act are
26 hereby repealed.

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28 SECTION 6. EMERGENCY CLAUSE. It is hereby found and determined by the
29 General Assembly that additional measures need to be adopted to ensure that
30 the Arkansas Workers_ Compensation Insurance Plan adequately serves Arkansas
31 employers and their employees; that this act provides for an alternate
32 preferred plan and imposes appropriate restrictions on the administration of
33 the Arkansas Workers_ Compensation Plan; and that this act should become
34 effective immediately to allow the Insurance Commissioner sufficient time to
35 implement the modifications required by this act. Therefore, an emergency is

1 hereby declared to exist and this act being necessary for the immediate
2 preservation of the public peace, health and safety shall be in full force and
3 effect from and after its passage and approval.

4 */s/ Senator Bradford*