

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2772

4
5 By: Representative Parks
6
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND AND REORGANIZE THE PUBLIC
10 ELEMENTARY AND SECONDARY SCHOOL SELF-INSURANCE
11 PROGRAM; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO AMEND AND REORGANIZE THE
15 PUBLIC ELEMENTARY AND SECONDARY SCHOOL
16 SELF-INSURANCE PROGRAM.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 6-20-1502 is repealed.

22 ~~6-20-1502. Establishment of self insurance system—Insurance Service~~
23 ~~Division.~~

24 ~~The purpose of this subchapter is to permit school districts to~~
25 ~~establish and maintain a system of self insurance for the public elementary~~
26 ~~and secondary schools of Arkansas. The State Board of Education is~~
27 ~~authorized, directed, and empowered to establish an Insurance Service~~
28 ~~Division within the Department of Education.~~
29

30 SECTION 2. Arkansas Code §§ 6-20-1503 through 6-20-1509 are amended to
31 read as follows:

32 6-20-1503. State Board of Education - Powers and duties generally.

33 It shall be the power and duty of the State Board of Education,
34 hereinafter referred to as the board, to:

35 (1) Adopt such rules and regulations as may be necessary to provide
36 for the insuring of public elementary and secondary school property within



1 the State of Arkansas;

2 (2) Administer the Public Elementary and Secondary School Insurance
3 Fund;

4 (3) Delegate to the Director of the Department of Education and the
5 staff of the Department of Education, hereinafter referred to as the
6 department, responsibilities in connection with the administration of this
7 subchapter;

8 (4) Establish and administer a program of self-insurance to cover
9 buildings and contents of public school districts, education cooperatives,
10 and open-enrollment charter schools of this state which have elected to
11 establish a system of self-insurance. The programs shall be in accordance
12 with recognized and established insurance practices;

13 (5) Establish, and from time to time modify, the premium rates to be
14 charged for the various risks. The rates shall be based upon those reported
15 by the Insurance Service Office on similar risks in this state;

16 (6) Promulgate the form for insurance policies and other forms
17 required for the purposes of this subchapter;

18 (7) Reinsure, upon terms which the board deems most advantageous, with
19 insurance companies authorized to do business in this state. Reinsurance
20 shall be provided in keeping with recognized principles of good risk
21 management. The board shall prescribe, from time to time, such rules and
22 regulations as the board deems necessary in placing and handling reinsurance
23 and shall publish the rules and regulations in order that all insurance
24 companies interested in writing reinsurance may have an opportunity to
25 participate in seeking to write reinsurance;

26 (8) Employ necessary officials, engineers, appraisers, and other
27 personnel required in the administration of this subchapter;

28 (9) Engage in a program of fire prevention to assist the various
29 public schools in improving and minimizing potential insurance losses; and

30 (10) Perform all additional powers and duties necessary to maintain
31 sound insurance underwriting practices recognized by good risk management, in
32 the furtherance of the board's powers and duties under this subchapter.

33

34 6-20-1504. School Self-Insurance Advisory Committee.

35 (a) There is established a School Self-Insurance Advisory Committee
36 consisting of five (5) members as follows:

1 (1) One (1) person to be appointed by the Chair of the Senate
 2 Interim Committee on Education;

3 (2) One (1) person to be appointed by the Chair of the House
 4 Interim Committee on Education;

5 (3) The Insurance Commissioner, or his or her designee;

6 (4) The Director of the Department of Finance and
 7 Administration, or his or her designee; and

8 (5) One (1) person to be appointed by the Governor.

9 (b) The appointed members of the advisory committee shall be appointed
 10 for a term of two (2) years.

11 (c)(1) The advisory committee shall meet at such times and places as
 12 it shall deem necessary for the purpose of carrying out its duties under the
 13 provisions of this subchapter.

14 (2)(A) The advisory committee shall select one (1) of its
 15 members as chair and such other officers as may be deemed necessary for
 16 transaction of committee business.

17 (B) The Assistant Director for Public School Finance and
 18 Administrative Support of the Department of Education shall serve as
 19 secretary of the advisory committee.

20 (d) A majority of the members of the advisory committee shall
 21 constitute a quorum for the purpose of transacting business, and all action
 22 of the advisory committee shall be by a majority vote of the full membership
 23 of the committee.

24 (e) Members of the advisory committee shall serve without pay but may
 25 receive expense reimbursement in accordance with § 25-16-902.

26 (f) It shall be the duty of the advisory committee to:

27 (1) Advise the State Board of Education with respect to the
 28 operation of the public elementary and secondary school self-insurance
 29 program authorized by this subchapter;

30 (2) Periodically review the status of the self-insurance fund
 31 and the adequacy of insurance premium rates and compare these rates with
 32 rates for comparable risks for private insurance companies;

33 (3) Confer with superintendents and boards of directors of
 34 school districts, the governing boards of education cooperatives, and open-
 35 enrollment charter schools concerning insurance practices of the various
 36 districts, education cooperatives, and open-enrollment charter schools;

1 (4) Promulgate proposed rules and regulations for submission to
 2 the state board with respect to the administration of the state self-
 3 insurance program; and

4 (5) Perform such other duties in an advisory capacity to the
 5 state board and the department as will expedite the operation of the public
 6 elementary and secondary school self-insurance program.

7 (g) All proposed rules, regulations, and other recommendations
 8 pertaining to the self-insurance program recommended by the advisory
 9 committee under this subchapter shall be advisory to the state board. The
 10 state board shall adopt, modify, or reject recommendations of the advisory
 11 committee as the state board deems to be in the best interests of the public
 12 elementary and secondary school self-insurance program.

13
 14 6-20-1505. Information to be furnished.

15 (a) The Director of the Department of Education, with the approval of
 16 the board, shall require district school superintendents, ~~or~~ county school
 17 supervisors, ~~or~~ clerks, or governing boards of the education cooperatives or
 18 open-enrollment charter schools to furnish the Department of Education a
 19 complete list showing the location of every school building along with the
 20 location and the names and addresses of the school district board of
 21 directors or governing boards of the education cooperatives or open-
 22 enrollment charter schools thirty (30) days prior to entering the program.

23 (b) The department shall request full information in regard to the
 24 character of construction, value, location, and exposure of the buildings and
 25 any other pertinent information desired.

26 (c) The department shall have authority to require each school
 27 district, education cooperative, or open-enrollment charter school to furnish
 28 a complete report of its insurance program, including the expiration dates of
 29 its contracts, a history of losses, or any additional information required by
 30 the insurer.

31
 32 6-20-1506. Finding of uninsurability - Effect.

33 (a)(1) The Department of Education is authorized to maintain an
 34 inspection and engineering service and a training program designed to reduce
 35 the hazards of fire in public school buildings insured under this program.

36 (2) The State Board of Education shall have authority to cancel

1 or not renew insurance on any school property if the property is deemed no
 2 longer insurable; however, thirty (30) days' notice must be given in advance
 3 of cancellation.

4 (3) The board may refuse to insure property when it believes
 5 such coverage to be unsound.

6 (b) If the board denies an application or cancels an insurance policy
 7 on any property, any applicant affected by the action of the board may,
 8 within thirty (30) days after written notice of the action, appeal to the
 9 Insurance Commissioner who, after a hearing held upon not less than ten (10)
 10 days' written notice to the applicant and the board, may affirm or reverse
 11 the action.

12 (c) In carrying out his duties pursuant to this section, the
 13 commissioner may request and the board shall provide any information he deems
 14 necessary for a determination concerning the reasons for the denial or
 15 cancellation of the application.

16
 17 6-20-1507. Premium rate and payment.

18 (a) ~~The A premium rate shall be approved by the State Board of~~
 19 ~~Education. The rate shall not be in excess of, but may be less than, the~~
 20 ~~rate which, in the opinion of the board, would be charged by reliable~~
 21 ~~commercial companies writing fire and extended coverage insurance in~~
 22 ~~Arkansas.~~

23 (b) School districts, education cooperatives or open-enrollment
 24 charter schools shall make payment of premium when demand is made as
 25 scheduled in the contract.

26 (c)(1) Any school district, education cooperative, or open-enrollment
 27 charter school which does not pay the premium due shall be charged a rate of
 28 interest at five percent (5%) per annum on all payments due and unpaid on the
 29 policy issued.

30 (2) The State Board of Education may cancel insurance coverage
 31 for school districts, educational cooperatives, or open-enrollment charter
 32 schools that fail to pay the premium due.

33 (3) The State Board of Education shall give thirty (30) days'
 34 notice before any cancellation for nonpayment.

35 (d) Rules and regulations of the board shall include such items as
 36 payment of premiums and other pertinent items with reference to the premium

1 rate, but the rules and regulations shall not be more stringent than
 2 practices of reliable commercial companies writing fire and extended coverage
 3 insurance in Arkansas.

4 (e) Premiums collected by the state self-insurance program shall
 5 continue to be subject to any premium tax now or hereafter levied for the
 6 support of the firemen's pension and relief fund.

7
 8 6-20-1508. Appraisal and payment of losses.

9 (a) In the event of loss of school district, education cooperative, or
 10 open-enrollment charter school property under this program, the fund shall
 11 pay the loss as specified in the contract, which must not exceed the maximum
 12 as prescribed by the State Board of Education.

13 (b) When an agreement as to the extent of loss or damage cannot be
 14 reached between the board and officials having charge of the property, the
 15 amount of the loss or damage shall be determined by three (3) appraisers, one
 16 (1) to be named by the board, one (1) by the school district, education
 17 cooperative, or open-enrollment charter school governing board, and a third
 18 to be selected by the two (2) appointed appraisers, all of whom shall be
 19 disinterested persons and qualified from experience to appraise and value
 20 such property.

21 (c) If a third appraiser is not agreed upon within thirty (30) days,
 22 the board shall have authority to appoint a third appraiser.

23 (d) It shall be the duty of the Department of Education to coordinate,
 24 facilitate, and expedite details in connection with responsibilities outlined
 25 in this section.

26 (e) The board is granted authority to contract for services with
 27 licensed real estate brokers in order to expedite and facilitate the proper
 28 operation of the program.

29
 30 6-20-1509. Effect of federal assistance.

31 Any school district, education cooperative, or open-enrollment charter
 32 school which may receive financial assistance from the federal government as
 33 a result of federal legislation pertaining to disasters shall not be
 34 adversely affected as a result of any moneys due from the fund because of
 35 coverage by the self-insurance program.

36

1 SECTION 3. Arkansas Code § 6-20-1512 is amended to read as follows:
 2 6-20-1512. Disposition of funds.

3 All funds received by the State Board of Education as premiums,
 4 adjustments, earnings, and the like, as provided in this subchapter, shall be
 5 used for the following purposes, listed in a descending order of priority:

6 (1) To defray administrative costs;

7 (2) To pay claims; and

8 (3) To maintain the Permanent Insurance Reserve Fund of two million
 9 dollars (\$2,000,000); ~~and~~

10 ~~(4) To pay back the initial loan of two million dollars (\$2,000,000).~~

11
 12 SECTION 4. Arkansas Code § 6-20-1513 is amended to read as follows:
 13 6-20-1513. Bond obligations.

14 (a) The State Board of Education is authorized and directed to meet
 15 legal requirements with reference to coverage on buildings as a result of
 16 school district, education cooperative, or open-enrollment charter school
 17 bond obligations.

18 (b) The specific intent of this section is to ensure that policies
 19 issued by the program include provisions required by existing school district
 20 bond contracts.

21
 22 SECTION 5. The Insurance Services Division of the Department of
 23 Education is transferred by a type 2 transfer as provided in Arkansas Code §
 24 25-2-105 to the Insurance Department.

25
 26 SECTION 6. Any and all other statutory and regulatory authority,
 27 powers, duties, functions, records, property and funds administered or
 28 provided by other support divisions within the Department of Education or by
 29 the State Board of Education for the "The Public Elementary and Secondary
 30 School Self Insurance Act of 1973" pr the Insurance Services Divisions of the
 31 Department of Education shall be transferred by a type 2 transfer as provided
 32 in Arkansas Code § 25-2-105 to the Insurance Department.

33
 34 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
 35 General Assembly of the State of Arkansas that the smooth transition of the
 36 services and functions of the Insurance Services Division of the Department

1 of Education to the Insurance Department would require that the transition
2 occur at the change in fiscal years. Therefore, an emergency is declared to
3 exist and this act being necessary for the preservation of the public peace,
4 health, and safety shall become effective on July 1, 2003.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36