

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Clarence Bell**

A Bill ACT 824 OF 1991

SENATE BILL 448

For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A SELF-
9 INSURANCE PROGRAM FOR MOTOR VEHICLES OWNED BY
10 PARTICIPATING PUBLIC SCHOOL DISTRICTS IN ARKANSAS; AND FOR
11 OTHER PURPOSES."

12
13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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15 SECTION 1. Title. This act shall be known and may be cited as "The
16 School Motor Vehicle Self-Insurance Act of 1991."

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18 SECTION 2. Purpose. This act is to establish and maintain a system of
19 motor vehicle insurance for all public elementary and secondary schools of
20 Arkansas electing to participate in the program from and after July 1, 1991,
21 with the board authorized, directed, and empowered to administer the Program
22 through the Insurance Section within the Department. The board shall adopt
23 such procedural requirements as may be necessary to provide for the insuring
24 of motor vehicles owned by participating public school districts within the
25 State of Arkansas.

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27 SECTION 3. School Motor Vehicle Self-Insurance Program. There is
28 hereby established a School Motor Vehicle Self-Insurance Program for all
29 school motor vehicles of participating public school districts in the State of
30 Arkansas.

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32 SECTION 4. State Board of Education to Administer. The State Board of
33 Education, hereafter the board, shall administer the School Motor Vehicle
34 Self-Insurance Program, hereafter the program. The board is authorized to
35 delegate to the director and staff of the State Department of Education such
36 responsibilities as deemed necessary in connection with the administration of

1 this act.

2

3 SECTION 5. Powers and Duties. It shall be the power and duty of the
4 board to:

5 (a) Include in the insurance section of the department a program of
6 self-insurance to cover motor vehicles owned by public school districts. Such
7 program shall be in accordance with recognized and established insurance
8 practices.

9 (b) Establish and, from time to time, modify the premium rates to be
10 charged for various risks.

11 (c) Promulgate the form for insurance policies and other forms required
12 for the purposes of this act.

13 (d) Employ or contract for necessary officials, adjusters, appraisers,
14 attorneys and other personnel required in the administration of this act.

15 (e) Engage in a program of safety prevention to assist the public
16 schools in improving and minimizing potential loss of life and property.

17 (f) Perform all additional powers and duties necessary to maintain
18 sound insurance underwriting practices recognized by good risk management, in
19 the furtherance of the board's powers and duties under this act.

20 (g) Establish minimum requirements for drivers of buses and other
21 school vehicles. Such requirements may include, but need not be limited to
22 the following: age, physical condition, visual, hearing, training, past
23 driving violations and any other restrictions or guidelines as determined in
24 the best interest of safety or precautionary measures.

25

26 SECTION 6. Officials to Furnish Information. (a) The director of the
27 General Education Division of the Department of Education, with the approval
28 of the board, shall require each district participating in the program to
29 furnish to the department a complete list of each and every motor vehicle with
30 full information in regard to the year, make, model, value, condition, and any
31 other pertinent information.

32 (b) The department shall have authority to require each participating
33 school district to furnish a complete report of its motor vehicle insurance
34 program including the expiration dates of its contracts and loss histories.

35

1 SECTION 7. Advisory Committee. (a) There is hereby established a
2 School Motor Vehicle Self-Insurance Advisory Committee consisting of five (5)
3 members as follows: The Chairman of the Senate Education Committee, the
4 Chairman of the House Education Committee, the Commissioner of Insurance, the
5 Director of the Finance and Administration Department, and one (1) person to
6 be appointed by the governor.

7 (b) The appointed member shall be appointed for a term of two (2)
8 years.

9 (c) The School Motor Vehicle Self-Insurance Advisory Committee shall
10 meet at such time and places as it shall deem necessary for the purpose of
11 carrying out its duties under the provisions of this act.

12 (d) The School Motor Vehicle Self-Insurance Advisory Committee shall
13 select one (1) of its members as chairman and such other officers as may be
14 deemed necessary for transaction of business.

15 (e) The Associate Director of the General Education Division, Finance
16 and Administration shall serve as Secretary of the School Motor Vehicle Self-
17 Insurance Advisory Committee.

18 (f) A majority of the members of the School Motor Vehicle Self-
19 Insurance Advisory Committee shall constitute a quorum for the purpose of
20 transacting business.

21 (g) All action of the School Motor Vehicle Self-Insurance Advisory
22 Committee shall be by a majority vote of the full membership of the committee.

23 (h) Members shall serve without pay, but shall be entitled to
24 reimbursement for reasonable and necessary expenses for lodging, meals and
25 transportation in attending committee meetings and in performing other duties
26 in furtherance of the purposes of this act, as authorized by the committee.
27 Travel expenses of members of the committee shall be in conformance with state
28 travel regulations provided for state employees.

29 (i) It shall be the duty of the School Motor Vehicle Self-Insurance
30 Advisory Committee to advise the State Board of Education with respect to the
31 operation of the School Motor Vehicle Self-Insurance Program authorized by
32 this act.

33 (j) The advisory committee shall periodically review the status of the
34 School Motor Vehicle Reserve Fund, the adequacy of insurance premium rates and
35 shall promulgate proposed operational procedures with respect to the

1 administration of the program.

2 (k) The advisory committee shall perform such other duties in an
3 advisory capacity to the State Board of Education and the State Department of
4 Education, as will expedite the operation of the program.

5 (l) All proposed procedures, guidelines, and other recommendations
6 pertaining to the program recommended by the advisory committee under this act
7 shall be advisory to the State Board of Education.

8

9 SECTION 8. Maintenance, Inspection and Safety Program. (a) The
10 department is authorized to maintain an Inspection and Safety Program designed
11 to reduce the hazard of accidents involving motor vehicles insured under this
12 program.

13 (b) The board shall have authority to declare any school motor vehicle
14 unsafe for transporting students if deficiencies are found in the braking
15 system, steering system or any other mechanical or electrical system
16 constituting a hazard to life or property.

17 (c) The board may refuse to insure motor vehicles when it believes such
18 vehicles to be a hazard to life and property. If the vehicle is deemed no
19 longer insurable, thirty (30) days' notice must be given in advance of such
20 cancellation.

21 (d)(1) If the board declines to insure any vehicle owned by a public
22 school district, the affected school district may, within thirty (30) days
23 after written notice of such action, appeal to the Insurance Commissioner who,
24 after a hearing held upon not less than ten (10) days written notice to the
25 applicant and the board, may affirm or reverse such action.

26 (2) In carrying out the duties pursuant to this subsection, the
27 Insurance Commissioner may request and the board shall provide any information
28 necessary for a determination concerning the reasons for the denial or
29 cancellation of coverage.

30

31 SECTION 9. Premium Rate. (a) The premium rate shall be approved by
32 the advisory committee and the board.

33 (b) Participating school districts shall make payment of premium when
34 demand is made as scheduled in the contract.

35 (c) Procedural requirements of the board shall include such items as

1 payment of premium, and other pertinent items with reference to the premium
2 rate, but such procedural requirements shall not be more stringent than
3 practices of reliable commercial companies writing motor vehicle insurance in
4 Arkansas.

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6 SECTION 10. Adjustment of Claims/Losses. (a) The School Vehicle
7 Insurance Reserve Fund shall pay all losses and claims the insured is legally
8 obligated to pay as specified in the contract prescribed by the board.

9 (b) It shall be the duty of the department to coordinate, facilitate
10 and expedite details in connection with responsibilities outlined in the
11 insurance contract.

12 (c) The board is hereby granted authority to contract for services with
13 appraisers, adjusters, attorneys, or other professionals needed in order to
14 expedite and facilitate the proper operation of the program.

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16 SECTION 11. Reports Required. The department shall report annually to
17 the governor, the board and the general assembly on the status of the program,
18 including a detailed statement of investments and earnings.

19

20 SECTION 12. Other Insurance. Any other insurance purchased by a
21 participating local school district shall be excess to the coverage provided
22 under the program established by this act.

23

24 SECTION 13. School Vehicle Insurance Reserve Trust Fund. (a) There is
25 hereby established on the books of the State Treasurer, a separate fund to be
26 known as the School Vehicle Insurance Reserve Trust Fund (Fund) to be funded
27 initially by a one million five hundred thousand dollars (\$1,500,000) loan
28 from the Public Elementary and Secondary School Self-Insurance Fund as
29 established by the School Self-Insurance Act of 1973.

30 (b) No money shall be appropriated from this fund for any purpose
31 except for the use and benefit of participating governmental entities for
32 School Motor Vehicle claims, program expenses and for advisory committee
33 expenses.

34 (c) All funds received by the board as premiums, adjustments, earnings,
35 and the like, as provided in this act, shall be used for the following

1 purposes, listed in a descending order of priority:

- 2 (1) to defray administrative costs;
- 3 (2) to pay claims;
- 4 (3) to maintain the Reserve Fund as required by the advisory
- 5 committee and the board; and
- 6 (4) to pay back the initial loan.

7

8 SECTION 14. Policy Limits. (a) The board is hereby authorized and
9 directed that liability policies meet the minimum legal requirements of the
10 Motor Vehicle Safety Responsibility Act with reference to coverage on motor
11 vehicles. In no event shall the bodily injury/property damage limit under
12 this program be less than the minimum legal requirements of the Motor Vehicle
13 Safety Responsibility Act.

14 (b) The board is also authorized to include in the program and make
15 available to the participating school districts physical damage and medical
16 payments coverage. Medical payments coverage shall be limited to five
17 thousand dollars (\$5,000) per occupant of a school vehicle and shall be in
18 addition to any other automobile medical payments coverage available to any
19 occupant.

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21 SECTION 15. Subrogation. The School Vehicle Insurance Program may
22 require an assignment of rights of recovery to the extent that payment is made
23 under any coverage provided by the program.

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25 SECTION 16. Investments. (a) The reserve assets of the fund may be
26 invested and reinvested as the board may determine.

27 (b) Such investments shall be made by the State Board of Finance under
28 existing laws regarding the investment of public funds and in keeping with the
29 Arkansas Insurance Investment Code.

30 (c) All monies deposited to the fund shall not be subject to any
31 deduction, tax, levy, or any other type of assessment.

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33 SECTION 17. Participation in the School Motor Vehicle Insurance Program
34 provided for herein shall be optional with each school district or educational
35 cooperative and nothing contained herein shall be construed to require any

1 district or educational cooperative to participate in the program.

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3 SECTION 18. All provisions of this act of a general and permanent
4 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
5 Code Revision Commission shall incorporate the same in the Code.

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7 SECTION 19. If any provision of this act or the application thereof to
8 any person or circumstance is held invalid, such invalidity shall not affect
9 other provisions or applications of the act which can be given effect without
10 the invalid provision or application, and to this end the provisions of this
11 act are declared to be severable.

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13 SECTION 20. All laws and parts of laws in conflict with this act are
14 hereby repealed.

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16 SECTION 21. EMERGENCY CLAUSE. It is hereby found and determined by the
17 Seventy-Eighth General Assembly that the cost of motor vehicle insurance for
18 school districts has become almost prohibitive; that it is in the best
19 interest of public education that a School Motor Vehicle Self-Insurance
20 Program be established and made operative as soon as practical and that this
21 act is designed to accomplish this purpose and should be given effect
22 immediately. Therefore, an emergency is hereby declared to exist and this act
23 being necessary for the immediate preservation of the public peace, health and
24 safety shall be in full force and effect from and after its passage and
25 approval.

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27 APPROVED: 3/27/91

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