

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL 305

By: Senator Allen

"AN ACT TO PROVIDE FOR A SELF-INSURED STATE VEHICLE PROGRAM
FOR STATE VEHICLES; TO PROVIDE FOR A STATE SELF-INSURED
VEHICLE BOARD; AND FOR OTHER PURPOSES."

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

SECTION 1. It is hereby found and determined that the State of Arkansas is expending large sums of money each year for premiums on liability insurance for State vehicles; that considerable savings might be effected by the establishment of a self-insured State Vehicle Program for State vehicles; that this Act is designed to establish a State Self-Insured Vehicle Board to develop a self-insured State Vehicle Program; and to thereby effectuate substantial savings in the cost of liability insurance for State vehicles.

SECTION 2. For purposes of this Act, the term:

- (a) "State" means the State of Arkansas;
- (b) "Commissioner" means the Insurance Commissioner of the State of Arkansas; and
- (c) "State vehicle" means vehicles owned or operated by the State of Arkansas, and its Offices, Departments, Agencies, Boards and Commissions.

SECTION 3. There is hereby established a self-insured State Vehicle Program for State vehicles to be administered by the State Self-Insured Vehicle Board.

SECTION 4. The vehicle liability coverage provided by the self-insured State Vehicle Program shall provide liability coverage of not less than the minimum limits established under the Motor Vehicle Safety Responsibility Act, Ark. Stat. Ann. §§75-1401 et seq. At the discretion of the State Self-Insured

Vehicle Board, the Program may provide coverage for medical payments, comprehensive, collision, and hired and non-owned liability coverage, or such other coverages deemed necessary for State vehicles.

SECTION 5. There is hereby created the State Self-Insured Vehicle Board ("Board") which shall be composed of the following five (5) members:

- (a) two (2) members to be appointed by the Governor;
- (b) the Director of the Arkansas State Police;
- (c) the Director of the Department of Finance and Administration; and
- (d) the Arkansas Insurance Commissioner, who shall serve as chairman.

SECTION 6. The State Self-Insured Vehicle Board shall receive no compensation for their service but members other than the Directors of the State Police, Finance and Administration, and the Arkansas Insurance Commissioner shall be entitled to per diem for each day spent in attending meetings of the Board of otherwise attending official business of the Board at the rate prescribed by law for members of the General Assembly for attending joint interim committee meetings, plus mileage at the rate prescribed by State travel regulations for State employees. The per diem and mileage of members of the Board shall be paid by the Department of Insurance from funds specifically appropriated to the Department for such purpose or from other funds available to the Department for paying such per diem and mileage.

The State Self-Insured Vehicle Board shall meet at such times as necessary to carry out the responsibilities and duties of the Board, at the call of the chairman of the Board, or upon the request of a majority of the Board.

All action of the Board shall be by majority vote of the membership in attendance.

SECTION 7. It shall be the responsibility of the State Self-Insured Vehicle Board to develop and administer the self-insured State Vehicle Program for State vehicles. Duties and responsibilities of the Board shall include but shall not be limited to:

- (a) develop appropriate premium amounts, reserve requirements, retention limits, deductible amounts, policy periods, and aggregate limits;
- (b) secure reinsurance if excess coverage is deemed necessary by the

Board;

(c) establish operational procedures for program enrollments, preparation of loss histories, loss reporting and loss payments, invitations for bid, annual review of income, balances and expenditures;

(d) provide for issuance of billing certificates for premium collections for State vehicle coverage and administrative expenses of the Board subject to the provisions of this Act;

(e) secure services of a third party administrator, servicing carrier, adjusters, attorneys, actuaries and consultants, as necessary to implement and maintain the self-insured State Vehicle Program;

(f) contract with licensed Arkansas attorneys to serve as a hearing officer for disputed claims on an as-needed basis; and contract with a certified Arkansas court reporter to make a full stenographic record of proceedings on disputed claims on an as-needed basis; and

(g) establish compensation and expenses for and authorize payment of such amounts for those entities in subsections (e) and (f) of this Section.

SECTION 8. (a) There is hereby established on the books of the State Treasurer, the State Auditor, and the Chief Fiscal Officer of the State a separate fund to be known as the State Vehicle Trust Fund ("Fund"). No money shall be appropriated from this Fund for any purpose except for the use and benefit of participating State governmental entities for claims and for Board expenses including but not limited to third party administrator, servicing carrier, adjuster, attorney, actuarial, consultant, service contract fees, hearing officer and court reporter fees, as provided in this Act at the direction of the Board. The Fund established herein shall be administered by and disbursed at the direction of the Board.

(b) The assets of the Fund may be invested and reinvested as the Board may determine with the advice of the State Board of Finance. All incomes derived through investment of the Fund as established herein shall be credited, as investment income, to the Fund. For the purposes of investment, Fund monies invested and interest earned thereon shall be administered as Trust Funds pursuant to the provisions of subsection B of Section 9 of Act 12 of 1965 (First Extraordinary Session), as amended, the same being Ark. Stat. Ann. §13-429(B). Further, all monies deposited to the Fund shall not be subject to any deduction, tax, levy, or any other type of assessment.

(c) The premiums and expense monies collected by the Board under the provisions of this Act shall be deposited in the Fund created in subsection (a) of this Section.

SECTION 9. The Commissioner shall receive and disburse funds necessary for the establishment and operation of the self-insured State Vehicle Program. The State Risk Manager shall assist with the operations of the program and shall submit to the Board recommendations for the establishment of:

- (a) premium schedules for all participating governmental entities;
- (b) schedules for deductible amounts, and reserves;
- (c) loss histories, loss reporting, and loss payment procedures;
- (d) program enrollments, and safety programs for participating governmental entities;
- (e) annual review of fund income, balances, and expenditures;
- (f) proposed invitations to bid and service contracts, and retention levels, if the Board determines that excess coverage or reinsurance is necessary; and
- (g) such other information required by the Board for efficient operation of the self-insured State Vehicle Program.

SECTION 10. The Board, with the assistance of the Insurance Department, shall:

- (a) prepare a billing certification for premiums for State vehicle coverages and administrative expenses of the self-insured State Vehicle Program and the Board to be remitted to the Department of Finance and Administration, and upon receipt thereof, the Director of the Department of Finance and Administration shall pay the same from funds specifically appropriated therefor and funds so appropriated or otherwise made available for such purpose shall not be subject to reduction as a result of any shortfall of projected revenues,
- (b) upon receipt of such funds, the Commissioner shall deposit such funds in the Fund created in Section 8 of this Act.

SECTION 11. (a) It shall be the duty and responsibility of participating State entities to give immediate notice and make proof of loss to the Board as to all accidents involving State vehicles pursuant to the provi-

sions of the State Vehicle Program established by the Board. Upon receipt of proof of loss and after due investigation, the Commissioner may authorize loss payments from the Fund to the claimants on a timely basis. Any loss payment may be adjusted by any applicable deductible. In his discretion, the Commissioner may request that the Board review any such claims and proposed claims payments.

Upon loss payment from the Fund, the recipients of such loss payment shall, to the extent of such payment, assign to the Fund all rights and claims that they may have against the other parties. The Fund shall be subrogated to all of the rights of the recipients of the loss payment to the extent of the payment.

(b) The Board may direct a hearing officer to hear disputed claims. An appeal from the determination of the hearing officer may be taken to any court of competent jurisdiction. Appeals made under this Act shall be in accordance with the provisions of the Administrative Procedure Act, Ark. Stat. Ann.

§ 5-701 et seq.

SECTION 12. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 13. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

