

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

558

By: Senator C. Bell

For An Act To Be Entitled

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

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

SECTION 1. Title. This act shall be known as the "School Motor Vehicle Self-Insurance Act of 1989."

SECTION 2. School Motor Vehicle Insurance Program. There is hereby established a School Motor Vehicle Self-Insurance Program for all school motor vehicles of participating school districts in the State of Arkansas.

SECTION 3. State Board of Education to administer. The State Board of Education (the Board) shall administer the School Motor Vehicle Program (Program) and is authorized to delegate to the Director and staff of the Department of Education responsibilities in connection with the administration of this Act.

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

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

Self-Insurance Advisory Committee shall select one of its members as chairman and such other officers as may be deemed necessary for transaction of business. A designee of the Director, General Education Division, Arkansas Department of Education shall serve as Secretary of the School Motor Vehicle Self-Insurance Advisory Committee.

A majority of the members of the School Motor Vehicle Self-Insurance Advisory Committee shall constitute a quorum for the purpose of transacting business, and all action of the School Motor Vehicle Self-Insurance Advisory Committee shall be by a majority vote of the full membership of the committee. Members shall serve without pay, but shall be entitled to reimbursement for reasonable and necessary expenses for lodging, meals and transportation in attending committee meetings and in performing other duties in furtherance of the purposes of this act, as authorized by the committee. Travel expenses of members of the committee shall be in conformance with state travel regulations provided for state employees.

It shall be the duty of the School Motor Vehicle Self-Insurance Advisory Committee to advise the State Board of Education with respect to the operation of the School Motor Vehicle Self-Insurance Program authorized by this act. The Advisory Committee shall periodically review the status of the School Motor Vehicle Reserve Fund, the adequacy of insurance premium rates and shall promulgate proposed operational procedures with respect to the administration of the program, and shall perform such other duties in an advisory capacity to the State Board of Education and the State Department of Education, as will expedite the operation of the program. All proposed procedures, guidelines, and other recommendations pertaining to the program recommended by the Advisory Committee under this act shall be advisory to the State Board of Education.

SECTION 5. Purpose. This act is to establish and maintain a system of motor vehicle insurance for all public elementary and secondary schools of Arkansas electing to participate in the program from and after July 1, 1989, with the board authorized, directed, and empowered to administer the program through the Insurance Section within the Department. The Board shall adopt such procedural requirements as may be necessary to provide for the insuring of motor vehicles owned by participating public school districts within the State of Arkansas.

SECTION 6. Powers and duties. It shall be the power and duty of the board to:

(a) Include in the Insurance Section of the Department a program of self-insurance to cover motor vehicles owned by public school districts. Such program shall be in accordance with recognized and established insurance practices.

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

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

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

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

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

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

SECTION 7. Officials to furnish information. The State Director of Education, with the approval of the Board, shall require each district participating in the program to furnish the department a complete list of each and every motor vehicle with full information in regard to the year, make, model, value, condition, and any other pertinent information.

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

SECTION 8. Maintenance, Inspection and Safety program. The Department is authorized to maintain an Inspection and Safety Program designed to reduce

the hazard of accidents involving motor vehicles insured under this program. The Board shall have authority to declare any school motor vehicle unsafe for transporting students if deficiencies are found in the braking system, steering system or any other mechanical or electrical system constituting a hazard to life or property. If the vehicle is deemed no longer insurable, thirty (30) days' notice must be given in advance of such cancellation. The board may refuse to insure motor vehicles when it believes such vehicles to be a hazard to life and property.

If the board declines to insure any vehicle owned by a public school district, the affected school district may, within thirty (30) days after written notice of such action, appeal to the Insurance Commissioner who, after a hearing held upon not less than ten (10) days written notice to the applicant and the Board, may affirm or reverse such action. In carrying out the duties pursuant to this section, the Insurance Commissioner may request and the Board shall provide any information necessary for a determination concerning the reasons for the denial or cancellation of coverage.

SECTION 9. Premium rate. The premium rate shall be approved by the Advisory Committee and the Board. Participating school districts shall make payment of premium when demand is made as scheduled in the contract. Procedural requirements of the board shall include such items as payment of premium, and other pertinent items with reference to the premium rate, but such procedural requirements shall not be more stringent than practices of reliable commercial companies writing motor vehicle insurance in Arkansas.

SECTION 10. Adjustment of claims/losses. The School Vehicle Insurance Reserve Fund shall pay all losses and claims the insured is legally obligated to pay as specified in the contract prescribed by the Board. It shall be the duty of the Department of Education to coordinate, facilitate and expedite details in connection with responsibilities outlined in the insurance contract. The Board is hereby granted authority to contract for services with appraisers, adjusters, attorneys, or other professionals needed in order to expedite and facilitate the proper operation of the program.

SECTION 11. Reports required. The Department shall report annually to the Governor, the Board and the General Assembly on the status of the program

including a detailed statement of investments and earnings.

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

SECTION 13. School Vehicle Insurance Reserve Trust Fund. (a) There is hereby established on the books of the State Treasurer, a separate fund to be known as the School Vehicle Insurance Reserve Trust Fund (Fund) to be funded initially by a one million five hundred thousand dollar (\$1,500,000) loan from the Public Elementary and Secondary School Self-Insurance Fund as established by the School Self-Insurance Act of 1973. No money shall be appropriated from this fund for any purpose except for the use and benefit of participating governmental entities for School Motor Vehicle claims, program expenses and for Board expenses. All funds received by the Board as premiums, adjustments, earnings, and the like, as provided in this Act, shall be used for the following purposes, listed in a descending order of priority: (1) to defray administrative costs; (2) to pay claims; (3) to maintain the Reserve Fund as required by the Advisory Committee and Board; and (4) to pay back the initial loan.

SECTION 14. Policy limits. The Board is hereby authorized and directed that liability policies meet the minimum legal requirements of the Motor Vehicle Safety Responsibility Act with reference to coverage on motor vehicles. In no event shall the bodily injury/property damage limit under this program be less than the minimum legal requirements of the Motor Vehicle Safety Responsibility Act.

The specific intent of this section is to insure that policies issued by the program comply with the provisions required by Arkansas Code 21-9-303.

The Board is also authorized to include in the program and make available to the participating school districts physical damage and medical payments coverage. Medical payments coverage shall be limited to five thousand dollars (\$5,000) per occupant of a school vehicle and shall be excess to any other automobile medical payments coverage available to any occupant.

SECTION 15. Subrogation. The School Vehicle Insurance Program may

require an assignment of rights of recovery to the extent that payment is made under any coverage provided by the program.

SECTION 16. Investments. The reserve assets of the fund may be invested and reinvested as the Board may determine. Such investments shall be made by the State Board of Finance under existing laws regarding the investment of public funds and in keeping with the Arkansas Insurance Investment Code. All monies deposited to the fund shall not be subject to any deduction, tax, levy, or any other type of assessment.

SECTION 17. Participation in the school motor vehicle insurance program provided for herein shall be optional with each school district or educational cooperative and nothing contained herein shall be construed to require any district or educational cooperative to participate in the program.

SECTION 18. Provisions severable. 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 the 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.

SECTION 19. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

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