
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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COLAFELLA AND LASHINGER, OCTOBER 6, 1981

REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 6, 1981

AN ACT

1 Providing for group self-insurance funds for State colleges for
2 workers' compensation liabilities.

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8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the "State
12 Colleges Workers' Compensation Group Self-insurance Fund Act."

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have, unless the context clearly indicates otherwise, the
16 meanings given to them in this section:

17 "Department." The Department of Labor and Industry of the
18 Commonwealth of Pennsylvania unless otherwise indicated.

19 "Employer." Any employer as defined by section 103 of the
20 act of June 2, 1915 (P.L.736, No.338), known as "The
21 Pennsylvania Workmen's Compensation Act," who is a State college
22 or university as defined by section 2002 of the act of March 10,
23 1949 (P.L.30, No.14), known as the "Public School Code of 1949,"
24 and who has elected to cover all of its employees under the
25 provision of this act.

26 "Employers' liability." The legal liability of an employer
27 to pay damages because of bodily injury by accident or disease,
28 including death, at any time resulting therefrom, sustained by
29 an employee arising out of and in the course of his employment
30 by the employer, which is not covered by a Workmen's

1 Compensation, Occupational Disease, or related Federal law.

2 "Excess insurance." Insurance, purchased from an insurance
3 company appropriately licensed in the Commonwealth of
4 Pennsylvania or qualified by the Insurance Commissioner of the
5 Commonwealth of Pennsylvania as a surplus lines insurer,
6 covering losses in excess of an amount established between the
7 group and the insurer up to the limits of coverage set forth in
8 the insurance contract on a specific per occurrence or per
9 accident or annual aggregate basis.

10 "Fund." A Group Self-insurance Fund organized by employers
11 to pool workers' compensation liabilities and approved by the
12 department on an annual basis under the authority of this act.

13 "Plan committee." A committee composed of representatives of
14 each employer who is participating in a fund.

15 "Surplus." That amount of moneys found in the trust to be
16 excess of all fixed costs and incurred losses attributed to the
17 pool net any occurrence or aggregate excess insurance.

18 "Trust." A written contract signed by the members of the
19 fund which separates the legal and equitable rights to the
20 moneys held by an independent trustee as a fiduciary for the
21 benefit of employees of employers participating in the fund.

22 "Workers' Compensation Act." The act of June 2, 1915
23 (P.L.736, No.338), known as "The Pennsylvania Workmen's
24 Compensation Act," or the act of June 21, 1939 (P.L.566,
25 No.284), known as "The Pennsylvania Occupational Disease Act."
26 Section 3. Private employers.

27 (a) An association of employers may be permitted by the
28 department to act as a group self-insurance fund.

29 (b) Private employers shall be permitted to pool their
30 liabilities under the Workers' Compensation Act and their

1 employers' liability through participation in an approved fund
2 described in subsection (a). Members of a fund shall execute a
3 trust agreement under which each agrees to jointly and severally
4 assume and discharge the liabilities of each and every party to
5 such agreement arising under their employers' liability, the
6 Workers' Compensation Act and under related Federal statutes.
7 Such trust agreements shall be subject to approval by the
8 department.

9 Section 4. Filing requirements.

10 Any applicant for a permit to establish a fund shall file
11 with the department a statement certifying:

12 (1) the aggregate net worth of the participants
13 according to generally accepted accounting principles equals
14 or exceeds \$1,000,000; and

15 (2) the aggregate of the latest year's payroll of the
16 prospective members of the fund.

17 In addition, the applicant shall file with the department the
18 proposed trust agreement, proposed types and amounts of excess
19 insurance and retention amounts, and such other information
20 required on the form which the department shall provide under
21 the authority of this section.

22 Section 5. Approval of applications.

23 (a) The department shall tentatively approve any application
24 for a permit for the formation of a fund which meets the
25 following criteria:

26 (1) Guarantees benefit levels equal to those guaranteed
27 by the Workers' Compensation Act or other applicable statutes
28 and demonstrates sufficient aggregate financial strength and
29 liquidity to assure that all obligations under the act will
30 be promptly met and proposes a plan for the prompt payment of

1 such benefits. Information documenting an individual member's
2 financial strength and liquidity shall be made available to
3 the department upon the department's written request.

4 (2) Provides for joint and several liability.

5 (3) Provides a confirmation for excess insurance and
6 retention amounts in such amount as the department deems
7 acceptable on a single accident (single occurrence) and
8 aggregate excess basis. The department may waive the
9 requirement for one type of excess insurance if convinced
10 that the fund's financial strength is sufficient to assure
11 payment of its obligations under the Workers' Compensation
12 Act or this act.

13 (4) Contains a list of letters of intent from
14 prospective group fund members.

15 (5) Provides for assessment upon participating employers
16 as required herein.

17 (6) Provides proof of competent personnel and ample
18 facilities within its own organization with respect to claims
19 administration, underwriting matters, loss prevention and
20 safety engineering or presents a contract with a reputable
21 service company to provide such assistance.

22 (7) Includes a payment plan for assessments.

23 (8) Provides all of the information required in section
24 4 completed to the satisfaction of the department.

25 Said approval or disapproval shall be given by the department
26 within 90 days of receipt of the completed application form:
27 Provided, however, That the application shall be deemed into
28 effect if the department has not disapproved the application
29 within said 90-day period.

30 (b) Prior to the issuance of a permit, a trust agreement

1 made pursuant to the approved application shall be submitted to
2 the department. Within 30 days of receipt of the text of the
3 agreement and other materials associated therewith, the
4 department shall review the agreement, for technical sufficiency
5 and conflict or inconsistency with any provisions of this act
6 and operations being conducted thereunder: Provided, however,
7 That the agreement shall be deemed into effect if the department
8 has not disapproved the agreement within said 30-day period.

9 (c) The department shall issue to each original and renewal
10 applicant for group self-insurance which complies with
11 subsections (a) and (b), a permit for a group self-insurance
12 fund which shall be effective for a period of 12 calendar
13 months. Unless previously revoked, all permits issued under this
14 section shall expire and terminate on the last day of the annual
15 exemption period for which they were issued. Permits issued
16 under this act shall be renewed upon filing of a renewal
17 application. Such renewal application shall be submitted to the
18 department at least 60 days prior to the expiration of the
19 permit. Any renewal application shall be deemed approved unless
20 the department notifies the fund of its disapproval within 30
21 days of the submission of the renewal application. The
22 department may, from time to time, require further statements of
23 the financial condition of such fund and, if at any time the
24 ability of the fund to assure payment of its obligations under
25 the Workers' Compensation Act or this act appears to be in
26 jeopardy, shall mandate an assessment or revoke its permit, in
27 the latter case the members of the fund shall immediately obtain
28 coverage as required by law.

29 Section 6. Disapproval of initial application.

30 Should the department determine that the application for a

1 fund does not meet the criteria described in section 5(a) and
2 (b), the department shall issue to an applicant a final order
3 containing the specific reasons for rejection, and the
4 requirements to be met before approval may be granted. During
5 the pendency of such an appeal, a group of employers shall not
6 operate as a fund under the provisions of this act.

7 Section 7. Annual assessment.

8 (a) Members of said fund shall pay 25% of their annual
9 assessment into the fund on or before the inception of the fund.
10 The balance of the annual assessments shall be paid to the fund
11 on a monthly, quarterly or semiannual basis as required by the
12 fund's bylaws and approved by the department. Each member's
13 annual assessment to the fund shall be in accordance with its
14 own rates with the approval of a member of the American Academy
15 of Actuaries and the department.

16 (b) Nothing contained in this section shall preclude the
17 assessment and payment of supplemental assessments as provided
18 in section 11.

19 Section 8. Approval of additional fund members.

20 After the final permit approval date of the fund, prospective
21 new members of the fund shall submit an application for
22 membership to the fund's plan committee or administrator on a
23 form approved by the department. Such application shall include
24 an agreement of joint and several liability as required in
25 section 3. The administrator or plan committee may approve the
26 application for membership pursuant to the bylaws of the fund.
27 The application approved by the fund shall be filed with the
28 department. The fund shall retain the authority to reject any
29 applicant.

30 Section 9. Termination of fund members.

1 (a) Individual members may elect to terminate their
2 participation in a fund or be subject to cancellation by the
3 fund pursuant to the bylaws of the fund for nonpayment of
4 premium. A member of a fund must remain a member for the
5 duration of the annual approval period unless terminated for
6 nonpayment of premium with the proviso that any such employer
7 may resign from such fund by giving at least 90 days' written
8 notice of such intent prior to the filing of the renewal
9 application. Any withdrawing member of a fund or member
10 terminated for nonpayment of premium by a fund shall remain
11 fully obligated for claims incurred during the period of its
12 membership in accord with fund bylaws, including but not limited
13 to calls for supplemental assessments. Notice of termination of
14 any participant shall be filed with the fund. The fund shall
15 attach any such notices of termination to the renewal permit
16 application filed with the department.

17 (b) The fund shall notify the department immediately if
18 termination of a member causes the group to fail to meet the
19 requirements of section 5(a). Within 15 days of the notice of
20 withdrawal or decision to expel, the fund shall advise the
21 department of its plan to bring the group into compliance with
22 section 5. If the group does not meet the requirement, the
23 department shall immediately review the financial stability of
24 the fund and shall have the authority to revoke its permit if
25 the ability of the fund to assure payment of benefits under the
26 Workers' Compensation Act or this act is jeopardized.

27 Section 10. Dividends.

28 Any fund may return to its participants dividends if approved
29 by a member of the American Academy of Actuaries. Dividends
30 shall not be returned if the payment of such dividends would

1 impair the fund's ability to meet its obligations under the
2 Workers' Compensation Act or this act, nor shall dividends be
3 returned prior to the beginning of the 13th month following the
4 expiration of the preceding permit year. The initial dividend
5 payment for any permit year shall not exceed 30% of the surplus
6 available for the applicable permit year. The fund may, however,
7 seek annual approval for payment of dividends from the surplus
8 remaining from any permit year which has been completed for at
9 least 25 months or longer and may include such dividend payments
10 with initial dividend payments from the preceding permit year.

11 Section 11. Supplemental assessments.

12 Every fund approved by the department under this act shall
13 assess upon its members an additional payment whenever needed,
14 in order to supplement the reserves of its fund to assure
15 payment of benefits under the Workers' Compensation Act or this
16 act.

17 Section 12. Classifications.

18 Each fund shall request classifications for its participants
19 from the Pennsylvania Compensation Rating Bureau and shall
20 utilize those classifications in making assessments.

21 Section 13. Investments.

22 Each fund may invest any surplus moneys not needed for
23 current obligations in United States Government Obligations,
24 United States Treasury Notes, investment share accounts in any
25 savings and loan association whose deposits are insured by a
26 Federal agency and Certificates of Deposit issued by a duly
27 chartered commercial bank. Deposits in savings and loan
28 associations and commercial banks shall be limited to
29 institutions in the Commonwealth and shall not exceed the
30 Federally insured amount in any one account. Investments may

1 also be made in any permitted investments of capital or surplus
2 of stock casualty insurance companies set forth in section 602
3 or 603 of the act of May 17, 1921 (P.L.682, No.284), known as
4 "The Insurance Company Law of 1921," as may be authorized by
5 regulation approved by the commissioner.

6 Section 14. Excess insurance.

7 (a) Funds approved under this act shall purchase excess
8 insurance by reason of any single accident or any single
9 occurrence as provided in section 653 of the act of May 17, 1921
10 (P.L.682, No.284), known as "The Insurance Company Law of 1921,"
11 and aggregate excess insurance. The department may in accordance
12 with section 5(a)(3) waive the requirement for either single
13 accident (single occurrence) or aggregate excess insurance, but
14 may not waive the requirement for both single accident (single
15 occurrence) and aggregate excess insurance.

16 (b) A policy of insurance by an insurance carrier may
17 include provisions for aggregate excess insurance in addition to
18 the single accident (single occurrence) excess insurance which
19 is authorized under said section 653.

20 Section 15. Annual reports.

21 An annual report shall be prepared by each fund, filed with
22 the department, and made available to each participating
23 employer. The information contained in the annual report shall
24 include for each member of the fund and the fund itself:

25 (1) Summary loss reports.

26 (2) An annual statement of the financial condition of
27 the fund prepared by a certified public accountant and
28 performed in accordance with generally accepted accounting
29 principles.

30 (3) Reports of outstanding liabilities showing the

1 number of claims, amounts paid to date and current reserves
2 as certified by a member of the American Academy of
3 Actuaries.

4 (4) Such other information as required by regulation of
5 the department.

6 Section 16. Rules and regulations.

7 The department is hereby authorized to issue in accordance
8 with the act of July 31, 1968 (P.L.769, No.240), referred to as
9 the Commonwealth Documents Law such rules and regulations which
10 are required for the administration of this act.

11 Section 17. Legislative review of rules and regulations.

12 (a) Whenever the department proposes rules or regulations or
13 amendments thereto pursuant to this act and before the
14 department adopts finally any such rules or regulations or
15 amendments thereto pursuant to the Commonwealth Documents Law,
16 the department shall submit such rules or regulations or
17 amendments thereto to the General Assembly pursuant to the
18 provisions of this section.

19 (b) The department shall transmit such proposed rules or
20 regulations or amendments thereto to the Speaker of the House of
21 Representatives and to the President pro tempore of the Senate
22 who shall authorize and direct an appropriate committee to
23 review the proposals. Either committee may within 30 calendar
24 days or five legislative days, whichever is later, recommend
25 disapproval of the proposed rules or regulations or amendments
26 thereto to the General Assembly. Subsequent to a recommendation
27 for disapproval by either committee, the General Assembly may by
28 concurrent resolution, within 30 calendar days or five
29 legislative days, whichever is later, disapprove the proposed
30 rules, regulations or amendments thereto.

1 (c) Any rule or regulation or amendment thereto not
2 disapproved by the General Assembly within the allotted time may
3 be finally adopted by the department pursuant to the
4 Commonwealth Documents Law. Any rule or regulation or amendment
5 thereto which has not been submitted to the General Assembly
6 pursuant to this section or which has been disapproved shall be
7 null and void and without effect.

8 Section 18. Repeals.

9 All acts and parts of acts are repealed insofar as they are
10 inconsistent herewith.

11 Section 19. Effective date.

12 This act shall take effect in 60 days.