

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2361

By Committee on Appropriations

2-13

1 AN ACT concerning the state workers compensation self-insurance fund;
2 transferring administration of the fund to the department of
3 administration; amending K.S.A. ~~2016~~ 2017 Supp. 44-575, 44-577 and
4 44-578 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. ~~2016~~ 2017 Supp. 44-575 is hereby amended to read
8 as follows: 44-575. (a) As used in K.S.A. 44-575 through 44-580, and
9 amendments thereto, "state agency" means the state, or any department or
10 agency of the state, but not including the Kansas turnpike authority, the
11 university of Kansas hospital authority, any political subdivision of the
12 state or the district court with regard to district court officers or employees
13 whose total salary is payable by counties.

14 (b) For the purposes of providing for the payment of compensation
15 for claims arising on and after July 1, 1974, and all other amounts required
16 to be paid by any state agency as a self-insured employer under the
17 workers compensation act and any amendments or additions thereto, there
18 is hereby established the state workers compensation self-insurance fund
19 in the state treasury. ~~The name of the state workmen's compensation self-~~
20 ~~insurance fund is hereby changed to the state workers compensation self-~~
21 ~~insurance fund. Whenever the state workmen's compensation self-~~
22 ~~insurance fund is referred to or designated by any statute, contract or other~~
23 ~~document, such reference or designation shall be deemed to apply to the~~
24 ~~state workers compensation self-insurance fund.~~

25 (c) The state workers compensation self-insurance fund shall be liable
26 to pay: (1) All compensation for claims arising on and after July 1, 1974,
27 and all other amounts required to be paid by any state agency as a self-
28 insured employer under the workers compensation act and any
29 amendments or additions thereto; (2) the amount that all state agencies are
30 liable to pay of the "carrier's share of expense" of the administration of the
31 office of the director of workers' compensation as provided in K.S.A. 74-
32 712 through 74-719, and amendments thereto, for each fiscal year; (3) all
33 compensation for claims remaining from the self-insurance program which
34 existed prior to July 1, 1974, for institutional employees of the commission
35 of community services and programs of the Kansas department for aging
36 and disability services; (4) the cost of administering the state workers

1 compensation self-insurance fund including the defense of such fund and
2 any costs assessed to such fund in any proceeding to which it is a party;
3 and (5) the cost of establishing and operating the state workplace health
4 and safety program under subsection (f). For the purposes of K.S.A. 44-
5 575 through 44-580, and amendments thereto, all state agencies are hereby
6 deemed to be a single employer whose liabilities specified in this section
7 are hereby imposed solely upon the state workers compensation self-
8 insurance fund and such employer is hereby declared to be a fully
9 authorized and qualified self-insurer under K.S.A. 44-532, and
10 amendments thereto, but such employer shall not be required to make any
11 reports thereunder.

12 (d) The secretary of ~~health and environment~~ *administration* shall
13 administer the state workers compensation self-insurance fund and all
14 payments from such fund shall be upon warrants of the director of
15 accounts and reports issued pursuant to vouchers approved by the
16 secretary of ~~health and environment~~ *administration* or a person or persons
17 designated by the secretary. The director of accounts and reports may issue
18 warrants pursuant to vouchers approved by the secretary for payments
19 from the state workers compensation self-insurance fund notwithstanding
20 the fact that claims for such payments were not submitted or processed for
21 payment from money appropriated for the fiscal year in which the state
22 workers compensation self-insurance fund first became liable to make
23 such payments.

24 (e) The secretary of ~~health and environment~~ *administration* shall
25 remit all moneys received by or for the secretary in the capacity as
26 administrator of the state workers compensation self-insurance fund, to the
27 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
28 amendments thereto. Upon receipt of each such remittance, the state
29 treasurer shall deposit the entire amount in the state treasury to the credit
30 of the state workers compensation self-insurance fund.

31 (f) There is hereby established the state workplace health and safety
32 program within the state workers compensation self-insurance program of
33 the department of ~~health and environment~~ *administration*. The secretary of
34 ~~health and environment~~ *administration* shall implement and the division of
35 industrial health and safety of the Kansas department of labor shall assist
36 in administering the state workplace health and safety program for state
37 agencies. The state workplace health and safety program shall include, but
38 not be limited to:

39 (1) Workplace health and safety hazard surveys in all state agencies,
40 including onsite interviews with employees;

41 (2) workplace health and safety hazard prevention services, including
42 inspection and consultation services;

43 (3) procedures for identifying and controlling workplace hazards;

1 (4) development and dissemination of health and safety informational
2 materials, plans, rules and work procedures; and

3 (5) training for supervisors and employees in healthful and safe work
4 practices.

5 (g) *Except as provided in this act, the secretary of administration*
6 *shall be the successor in every way to the powers, duties and functions of*
7 *the secretary of health and environment that relate to the state workers*
8 *compensation self-insurance fund, in which the same were vested prior to*
9 *the effective date of this act.*

10 (h) *All orders and directives of the secretary of health and*
11 *environment that relate to the state workers compensation self-insurance*
12 *fund in existence immediately prior to the effective date of this act shall*
13 *continue to be effective and shall be deemed to be the orders or directives*
14 *of the secretary of administration, until revised, amended, repealed or*
15 *nullified pursuant to law.*

16 (i) *All rules and regulations of the secretary of health and*
17 *environment that relate to the state workers compensation self-insurance*
18 *fund in existence immediately prior to the effective date of this act shall*
19 *continue to be effective and shall be deemed to be the rules and*
20 *regulations of the secretary of administration until revised, amended,*
21 *repealed or nullified pursuant to law.*

22 (j) *The secretary of administration shall succeed to all records that*
23 *were used for or pertain to the performance of the powers, duties and*
24 *functions transferred to the secretary of administration pursuant to this*
25 *act. Any conflicts as to the proper disposition of records arising under this*
26 *section shall be resolved by the governor, whose decision shall be final.*

27 ~~(k) *Officers and employees who were engaged immediately prior to*~~
28 ~~*the effective date of this act in the performance of powers, duties and*~~
29 ~~*functions that are transferred pursuant to the provisions of this section,*~~
30 ~~*and, in the opinion of the department of administration, are necessary to*~~
31 ~~*perform the powers, duties and functions of the division of the state*~~
32 ~~*workers compensation self-insurance fund shall become officers and*~~
33 ~~*employees of the department of administration. Any such officer or*~~
34 ~~*employee shall retain all retirement benefits, including the right to retain*~~
35 ~~*active participation in the retirement system that the officer or employee*~~
36 ~~*belong to on the effective date of this act, and all rights of civil service that*~~
37 ~~*had accrued to or vested in such officer or employee prior to the effective*~~
38 ~~*date of this act. The service of each such officer and employee so*~~
39 ~~*transferred shall be deemed to have been continuous. All transfers and any*~~
40 ~~*abolishment of personnel in the classified service under the Kansas civil*~~
41 ~~*service act shall be in accordance with civil service laws and any rules*~~
42 ~~*and regulations adopted thereunder.*~~

43 (k) **All officers and employees of the division of the state workers**

1 compensation self-insurance fund of the department of health and
2 environment who, immediately prior to the effective date of this act,
3 are engaged in the exercise and performance of the powers, duties and
4 functions involving the administration of the state workers
5 compensation self-insurance fund and transferred by this act, as well
6 as all officers and employees of the department of health and
7 environment who are determined by the secretary of administration to
8 be engaged in providing administrative, technical or other support
9 services that are essential to the exercise and performance of the
10 powers, duties and functions transferred by this act, are hereby
11 transferred to the division of the state workers compensation self-
12 insurance fund of the department of administration. All classified
13 officers and employees so transferred shall retain their status as
14 classified employees.

15 (l) Officers and employees of the division of the state workers
16 compensation self-insurance fund of the department of health and
17 environment transferred by this act shall retain all retirement benefits
18 and leave balances and rights that had accrued or vested prior to the
19 date of transfer. The service of each such officer or employee so
20 transferred shall be deemed to have been continuous. Any subsequent
21 transfers, layoffs or abolition of classified service positions under the
22 Kansas civil service act shall be made in accordance with the civil
23 service laws and any rules and regulations adopted thereunder.
24 Nothing in this act shall affect the classified status of any transferred
25 person employed by the division of the state workers compensation
26 self-insurance fund of the department of health and environment
27 prior to the date of transfer.

28 Sec. 2. K.S.A. ~~2016~~ 2017 Supp. 44-577 is hereby amended to read as
29 follows: 44-577. (a) All claims for compensation under the workers
30 compensation act against any state agency for claims arising on and after
31 July 1, 1974, and claims for compensation remaining from the self-
32 insurance program which existed prior to July 1, 1974, for institutional
33 employees of the commission of community services and programs of the
34 Kansas department for aging and disability services shall be made against
35 the state workers compensation self-insurance fund. Such claims shall be
36 served upon the secretary of ~~health and environment~~ *administration* in the
37 secretary's capacity as administrator of the state workers compensation
38 self-insurance fund in the manner provided for claims against other
39 employers under the workers compensation act. The chief attorney for the
40 department of ~~health and environment~~ *administration*, or another attorney
41 of the department of ~~health and environment~~ *administration* designated by
42 the chief attorney, shall represent and defend the state workers
43 compensation self-insurance fund in all proceedings under the workers

1 compensation act.

2 (b) The secretary of ~~health and environment~~ *administration* shall
3 investigate, or cause to be investigated, each claim for compensation
4 against the state workers compensation self-insurance fund. For the
5 purposes of such investigations, the secretary of ~~health and environment~~
6 *administration* is authorized to obtain expert medical advice regarding the
7 injuries, occupational diseases and disabilities involved in such claims. If,
8 based upon such investigation and any other available information, the
9 secretary of ~~health and environment~~ *administration* finds that there is no
10 material dispute as to any issue involved in the claim, that the claim is
11 valid and that the claim should be settled by agreement, the secretary of
12 ~~health and environment~~ *administration* may proceed to enter into such an
13 agreement with the claimant, for the state workers compensation self-
14 insurance fund. Any such agreement may provide for lump-sum
15 settlements subject to approval by the director and all such agreements
16 shall be filed in the office of the director for approval as provided in
17 K.S.A. 44-527, and amendments thereto. All other claims for
18 compensation against such fund shall be paid in accordance with the
19 workers compensation act pursuant to final awards or orders of an
20 administrative law judge or the board or pursuant to orders and findings of
21 the director under the workers compensation act.

22 (c) For purposes of the workers compensation act, a volunteer
23 member of a regional emergency medical response team as provided in
24 K.S.A. 48-928, and amendments thereto, shall be considered a person in
25 the service of the state in connection with authorized training and upon
26 activation for emergency response, except when such duties arise in the
27 course of employment or as a volunteer for an employer other than the
28 state.

29 Sec. 3. K.S.A. ~~2016~~ **2017** Supp. 44-578 is hereby amended to read as
30 follows: 44-578. The secretary of ~~health and environment~~ *administration*
31 may adopt rules and regulations necessary for the administration of the
32 state workers compensation self-insurance fund, including the processing
33 and settling of claims for compensation made against such fund.

34 Sec. 4. K.S.A. ~~2016~~ **2017** Supp. 44-575, 44-577 and 44-578 are
35 hereby repealed.

36 Sec. 5. This act shall take effect and be in force from and after its
37 publication in the statute book.