As Amended by House Committee

Session of 2017

HOUSE BILL No. 2361

By Committee on Appropriations

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

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2016 Supp. 44-575 is hereby amended to read as follows:

(a) As used in K.S.A. 44-575 through 44-580, and amendments thereto, "state agency" means the state, or any department or agency of the state, but not including the Kansas turnpike authority, the university of Kansas hospital authority, any political subdivision of the state or the district court with regard to district court officers or employees whose total salary is payable by counties.

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

(c) The state workers compensation self-insurance fund shall be liable to pay: (1) All compensation for claims arising on and after July 1, 1974, and all other amounts required to be paid by any state agency as a self-insured employer under the workers compensation act and any amendments or additions thereto; (2) the amount that all state agencies are liable to pay of the "carrier's share of expense" of the administration of the office of the director of workers' compensation as provided in K.S.A. 74-712 through 74-719, and amendments thereto, for each fiscal year; (3) all compensation for claims remaining from the self-insurance program which existed prior to July 1, 1974, for institutional employees of the commission of community services and programs of the Kansas department for aging and disability services; (4) the cost of administering the state workers
compensation self-insurance fund including the defense of such fund and
any costs assessed to such fund in any proceeding to which it is a party;
and (5) the cost of establishing and operating the state workplace health
and safety program under subsection (f). For the purposes of K.S.A. 44-
575 through 44-580, and amendments thereto, all state agencies are hereby
deemed to be a single employer whose liabilities specified in this section
are hereby imposed solely upon the state workers compensation self-
insurance fund and such employer is hereby declared to be a fully
authorized and qualified self-insurer under K.S.A. 44-532, and
amendments thereto, but such employer shall not be required to make any
reports thereunder.

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

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

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

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

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

(3) procedures for identifying and controlling workplace hazards;
(4) development and dissemination of health and safety informational materials, plans, rules and work procedures; and
(5) training for supervisors and employees in healthful and safe work practices.

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

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

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

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

(k) Officers and employees who were engaged immediately prior to the effective date of this act in the performance of powers, duties and functions that are transferred pursuant to the provisions of this section, and, in the opinion of the department of administration, are necessary to perform the powers, duties and functions of the division of the state workers compensation self-insurance fund shall become officers and employees of the department of administration. Any such officer or employee shall retain all retirement benefits, including the right to remain active in the retirement system that the officer or employee belonged to on the effective date of this act, and all rights of civil service that had accrued to or vested in such officer or employee prior to the effective date of this act. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers and any abolition of personnel in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder.

(k) All officers and employees of the division of the state workers
compensation self-insurance fund of the department of health and environment who, immediately prior to the effective date of this act, are engaged in the exercise and performance of the powers, duties and functions involving the administration of the state workers compensation self-insurance fund and transferred by this act, as well as all officers and employees of the department of health and environment who are determined by the secretary of administration to be engaged in providing administrative, technical or other support services that are essential to the exercise and performance of the powers, duties and functions transferred by this act, are hereby transferred to the division of the state workers compensation self-insurance fund of the department of administration. All classified officers and employees so transferred shall retain their status as classified employees.

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

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

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

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

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

Sec. 4. K.S.A. 2016 Supp. 44-575, 44-577 and 44-578 are hereby repealed.

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