

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0592.03 Caroline Martin x5902

SENATE BILL 24-149

SENATE SPONSORSHIP

Hinrichsen,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING WORKERS' COMPENSATION INSURANCE FOR STATE
102 EMPLOYEES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill removes the state's ability to elect self-insurance as a means of maintaining the state employee workers' compensation account, while leaving intact the state's ability to procure commercial workers' compensation insurance to maintain the account.

The bill prohibits the state, when communicating with or reaching an agreement with a state employee about a workers' compensation claim,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

from suggesting or requiring that the state employee resign from state employment or refrain from seeking or obtaining employment with the state in the future or that any other restrictions be placed on the state employee's ability to work for the state and voids any provision of a contract related to such a claim that imposes such a restriction.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-30-1510.7,
3 **amend** (1)(a), (2), (5)(a), and (5)(b)(II); **repeal** (5)(c); and **add** (6), (7),
4 and (8) as follows:

5 **24-30-1510.7. Workers' compensation for state employees -**
6 **state employees' workers' compensation settlement agreements -**
7 **definition.** (1) (a) There is hereby created, as a separate account in the
8 risk management fund, the state employee workers' compensation
9 account, which consists of all ~~moneys~~ MONEY that may be appropriated
10 thereto by the general assembly and that may be otherwise made available
11 to it by the general assembly ~~for the purpose of establishing a workers'~~
12 ~~compensation self-insurance program for state employees or for the~~
13 procurement of commercial workers' compensation insurance in
14 accordance with subsection (2) of this section. ~~Moneys~~ MONEY
15 "otherwise made available" ~~include~~ INCLUDES transfers of ~~moneys~~ MONEY
16 to the account authorized in the general appropriation act. The ~~moneys~~
17 MONEY in the account ~~are~~ IS continuously appropriated for the purposes
18 of the state employee workers' compensation account other than the direct
19 and indirect administrative costs of operating the risk management
20 system, including legal services, litigation expenses, and third-party
21 administrator expenses. The general assembly shall make annual
22 appropriations from the account for the direct and indirect administrative
23 costs of operating the risk management system, including legal services,

1 litigation expenses, and third-party administrator expenses, that are
2 attributable to the operation of the state employee workers' compensation
3 account. At the end of any fiscal year, all unexpended and unencumbered
4 ~~moneys~~ MONEY in the account must remain in the account and may not be
5 credited or transferred to the general fund or any other fund. All interest
6 earned from the investment of ~~moneys~~ MONEY in the account pursuant to
7 this section must be credited to and become part of the account.

8 (2) Expenditures shall be made out of the state employee workers'
9 compensation account in the risk management fund in accordance with
10 subsection (1) of this section only for the following purposes:

11 (a) To pay workers' compensation benefits to state employees in
12 accordance with articles 40 to 47 of title 8, ~~C.R.S.~~, and to pay the
13 administrative costs of operating the department of personnel in relation
14 to the workers' compensation ~~self-insurance~~ program for state employees;

15 (b) To pay the premium for commercial workers' compensation
16 insurance. ~~if the state elects not to be self-insured for workers'~~
17 ~~compensation purposes.~~

18 (5) (a) (I) Notwithstanding section 8-44-105, ~~C.R.S.~~, if the state
19 elects ~~to self-insure workers' compensation claims as authorized in this~~
20 ~~section~~ or to insure for such claims through an entity other than Pinnacol
21 Assurance, created in section 8-45-101, ~~C.R.S.~~, on and after the effective
22 date of ~~such~~ THE election, the state shall be directly and primarily liable
23 for all liabilities due on all workers' compensation claims after ~~such~~ THE
24 election that arise on and after the beginning date of the initial policy
25 period in the annually renewable memorandum of agreement containing
26 a premium payment plan in effect between the state and Pinnacol
27 Assurance.

1 (II) ~~In no event shall the department of personnel elect to~~
2 ~~self-insure for workers' compensation claims prior to the beginning of a~~
3 ~~fiscal year in which the general assembly appropriates sufficient funds for~~
4 ~~such self-insurance.~~

5 (b) (II) Nothing in this ~~paragraph (b) shall be construed to relieve~~
6 SUBSECTION (5)(b) RELIEVES the state of any liability obligation if the
7 state elects to ~~self-insure or insure through an entity other than Pinnacol~~
8 Assurance pursuant to ~~paragraph (a) of this subsection (5)~~ SUBSECTION
9 (5)(a) OF THIS SECTION.

10 (c) ~~Notwithstanding the provisions of section 8-44-201 (1),~~
11 ~~C.R.S., if the state elects to self-insure workers' compensation claims as~~
12 ~~authorized in this section, the executive director of the department of~~
13 ~~labor and employment shall not prescribe or apply security requirements~~
14 ~~in granting or continuing permission for such state self-insurance~~
15 ~~program.~~

16 (6) WHEN COMMUNICATING WITH OR REACHING AN AGREEMENT
17 WITH A STATE EMPLOYEE ABOUT A WORKERS' COMPENSATION CLAIM, THE
18 STATE SHALL NEITHER SUGGEST NOR REQUIRE:

19 (a) THAT THE STATE EMPLOYEE RESIGN FROM STATE
20 EMPLOYMENT;

21 (b) THAT THE STATE EMPLOYEE REFRAIN FROM SEEKING OR
22 OBTAINING EMPLOYMENT WITH THE STATE IN THE FUTURE; OR

23 (c) THAT ANY OTHER RESTRICTIONS BE PLACED ON THE STATE
24 EMPLOYEE'S ABILITY TO WORK FOR THE STATE.

25 (7) A PROVISION OF AN AGREEMENT, CONTRACT, OR
26 ARRANGEMENT THAT VIOLATES SUBSECTION (6) OF THIS SECTION IS VOID
27 AND UNENFORCEABLE, BUT ALL OTHER PROVISIONS OF SUCH AN

1 AGREEMENT, CONTRACT, OR ARRANGEMENT REMAIN ENFORCEABLE
2 UNLESS OTHERWISE PROHIBITED BY LAW.

3 (8) AS USED IN THIS SECTION, "STATE EMPLOYEE" MEANS AN
4 INDIVIDUAL WHO CURRENTLY IS OR WAS IN THE PAST EMPLOYED BY THE
5 STATE, WHETHER OR NOT THE INDIVIDUAL IS UNDER THE STATE
6 PERSONNEL SYSTEM OR EXEMPT FROM THE STATE PERSONNEL SYSTEM.

7 **SECTION 2.** In Colorado Revised Statutes, 8-43-204, **add** (9) as
8 follows:

9 **8-43-204. Settlements - rules.** (9) IN ACCORDANCE WITH SECTION
10 24-30-1510.7 (6), IF THE STATE ENTERS INTO A SETTLEMENT AGREEMENT
11 WITH A STATE EMPLOYEE PURSUANT TO SUBSECTION (1) OF THIS SECTION,
12 THE STATE SHALL NEITHER SUGGEST NOR REQUIRE:

13 (a) THAT THE STATE EMPLOYEE RESIGN FROM STATE
14 EMPLOYMENT;

15 (b) THAT THE STATE EMPLOYEE REFRAIN FROM SEEKING OR
16 OBTAINING EMPLOYMENT WITH THE STATE IN THE FUTURE; OR

17 (c) THAT ANY OTHER RESTRICTIONS BE PLACED ON THE STATE
18 EMPLOYEE'S ABILITY TO WORK FOR THE STATE.

19 **SECTION 3.** In Colorado Revised Statutes, 8-44-201, **amend** (1);
20 and **repeal** (4) as follows:

21 **8-44-201. Employer as own insurance carrier - revocation of**
22 **permission.** (1) The executive director has the discretion to grant to any
23 employer who has accepted the provisions of articles 40 to 47 of this ~~title~~
24 TITLE 8, EXCEPT FOR THE STATE, permission to be its own insurance
25 carrier for the payment of the compensation and benefits provided by said
26 articles. Such permission may be granted by the executive director after
27 the filing by an employer of such statement and the giving of such

1 information as may be required by the executive director. The executive
2 director has the sole power to prescribe the rules, regulations, orders,
3 terms, and conditions upon which said permit shall be granted or
4 continued. Permission for self-insurance may be revoked at any time by
5 the executive director, and the employer, upon notice of revocation, shall
6 immediately insure otherwise all liability.

7 (4) ~~Notwithstanding the provisions of subsection (1) of this~~
8 ~~section, the executive director shall not prescribe or apply security~~
9 ~~requirements in granting or continuing permission for a self-insurance~~
10 ~~program established by the state pursuant to section 24-30-1510.7, C.R.S.~~

11 **SECTION 4. Safety clause.** The general assembly finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety or for appropriations for
14 the support and maintenance of the departments of the state and state
15 institutions.