

LEGISLATIVE BILL 3

Approved by the Governor February 6, 2001

Introduced by Executive Board: Coordsen, 32, Chairperson

AN ACT relating to financial emergencies; to amend section 81-8,239.02, Reissue Revised Statutes of Nebraska, and section 81-8,239.01, Revised Statutes Supplement, 2000; to repeal a section that terminated on June 30, 1998; to harmonize provisions; to repeal the original sections; and to outright repeal section 81-8,239.10, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-8,239.01, Revised Statutes Supplement, 2000, is amended to read:

81-8,239.01. (1) For purposes of sections 81-8,239.01 to 81-8,239.08, unless the context otherwise requires, the definition of state agencies found in section 81-8,210 shall apply, except that such term shall not include the Board of Regents of the University of Nebraska.

(2) There is hereby established a division within the Department of Administrative Services to be known as the risk management and state claims division. The division shall be headed by the Risk Manager who shall be appointed by the Director of Administrative Services. The division shall be responsible for the Risk Management Program, which program is hereby created. The program shall consist of the systematic identification of exposures to risk of loss as provided in sections 11-201 to 11-203, 13-911, 25-2165, 43-1320, 44-1615, 44-1616, 48-194, 48-197, 48-1,103, 48-1,104, 48-1,107, 48-1,109, 81-8,212, 81-8,220, 81-8,225, 81-8,226, 81-8,233, 81-8,239.01 to 81-8,239.08, and 81-8,300 and shall include the appropriate methods for dealing with such exposures in relation to the state budget pursuant to such sections. Such program shall be administered by the Risk Manager and shall include the operations of the State Claims Board and other operations provided in such sections.

(3) Under the Risk Management Program, the Risk Manager shall have the authority and responsibility to:

(a) Employ any personnel necessary to administer the Risk Management Program;

(b) Develop and maintain loss and exposure data on all state property and liability risks;

(c) Develop and recommend risk reduction or elimination programs for the state and its agencies and establish, implement, and monitor a statewide safety program;

(d) Determine which risk exposures shall be insured and which risk exposures shall be self-insured or assumed by the state;

(e) Establish standards for the purchase of necessary insurance coverage or risk management services at the lowest costs, consistent with good underwriting practices and sound risk management techniques;

(f) Be the exclusive negotiating and contracting agency to purchase insurance or risk management services and, after consultation with the state agency for which the insurance or services are purchased, enter into such contracts on behalf of the state and its agencies, officials, and employees to the extent deemed necessary and in the best interest of the state, and authorize payment for such purchase out of the appropriate funds created by section 81-8,239.02;

(g) Determine whether the state suffered a loss for which self-insured property loss funds have been created and authorize and administer payments for such loss from the State Self-Insured Property Fund for the purpose of replacing or rebuilding state property;

(h) Perform all duties assigned to the Risk Manager under the Nebraska Workers' Compensation Act and sections 11-201 to 11-203, 81-8,239.05, 81-8,239.07, ~~81-8,239.10~~, and 84-1601 to 84-1615;

(i) Approve the use of risk management pools by any department, agency, board, bureau, commission, or council of the State of Nebraska; and

(j) Recommend to the Legislature such legislation as may be necessary to carry out the purposes of the Risk Management Program and make appropriation requests for the administration of the program and the funding of the separate funds administered by the Risk Manager.

(4) No official or employee of any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act shall be considered a state official or employee for purposes of sections 81-8,239.01 to

81-8,239.06.

Sec. 2. Section 81-8,239.02, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,239.02. The following separate permanent revolving funds are established in the state treasury for use under the Risk Management Program according to the purposes for which each fund is established:

(1) The State Insurance Fund is hereby created for the purpose of purchasing insurance to cover property, fidelity, and liability risks of the state and workers' compensation claims against the state and other risks to which the state or its agencies, officials, or employees are exposed and for paying related expenses. The fund may receive deposits from assessments against state agencies to provide insurance coverage as directed by the Risk Manager. The Risk Manager may retain in the fund sufficient money to pay for any deductibles or copayments as may be required by such insurance policies;

(2) The State Self-Insured Property Fund is hereby created for the purpose of replacing, repairing, or rebuilding state property which has incurred damage or is suffering other loss not fully covered by insurance and for paying related expenses. The fund may receive deposits from assessments against state agencies to provide property coverage as directed by the Risk Manager. The Risk Manager may assess state agencies to provide self-insured property coverage; and

(3) The State Self-Insured Indemnification and Liability Fund is hereby created for the purpose of paying compensable liability and fidelity claims against the state or its agencies, officials, or employees which are not fully covered by insurance and for paying indemnification claims under section 81-8,239.05. Indemnification claims shall include payments for awards, settlements, and associated costs, including appeal bonds and reasonable costs associated with a required appearance before any tribunal. The fund may receive deposits from assessments against state agencies to pay for the costs associated with providing and supporting indemnification claims. The creation of this fund shall not be interpreted as expanding the liability exposure of the state or its agencies, officials, or employees. + and

~~(4) The Local Government Catastrophic Financial Emergency Fund is hereby created for the purpose of paying compensable claims under section 81-8,239.10 and for providing financial relief to local governments under such section in the form of grants or loans. All obligations and expenses incurred by the Risk Management Program as a result of claims filed against the fund shall be paid from the fund. The creation of the fund shall not be interpreted as expanding the liability exposure of the state or its agencies, officials, or employees or any political subdivision or its officials or employees. Voluntary payments from any source to aid in carrying out the purpose of the fund and payments on loans if so designated may be accepted and deposited to the credit of the fund. This subdivision terminates on June 30, 1998.~~

Sec. 3. Original section 81-8,239.02, Reissue Revised Statutes of Nebraska, and section 81-8,239.01, Revised Statutes Supplement, 2000, are repealed.

Sec. 4. The following section is outright repealed: Section 81-8,239.10, Reissue Revised Statutes of Nebraska.