

LABOR CODE

TITLE 5. WORKERS' COMPENSATION

SUBTITLE A. TEXAS WORKERS' COMPENSATION ACT

CHAPTER 412. STATE OFFICE OF RISK MANAGEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 412.001. DEFINITIONS. In this chapter:

- (1) "Board" means the risk management board.
- (2) "Director" means the executive director of the office.
- (3) "Office" means the State Office of Risk Management.
- (4) "State agency" means a board, commission, department, office, or other agency in the executive, judicial, or legislative branch of state government that has five or more employees, was created by the constitution or a statute of this state, and has authority not limited to a specific geographical portion of the state.

Amended by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER B. OFFICE

Sec. 412.011. POWERS AND DUTIES OF OFFICE. (a) The State Office of Risk Management shall administer insurance services obtained by state agencies, including the government employees workers' compensation insurance program and the state risk management programs.

(b) The office shall:

- (1) operate as a full-service risk manager and insurance manager for state agencies as provided by Subsection (c);
- (2) maintain and review records of property, casualty, or liability insurance coverages purchased by or for a state agency;
- (3) administer the program for the purchase of surety bonds for state officers and employees as provided by Chapter 653,

Government Code;

(4) administer guidelines adopted by the board for a comprehensive risk management program applicable to all state agencies to reduce property and liability losses, including workers' compensation losses;

(5) review, verify, monitor, and approve risk management programs adopted by state agencies;

(6) assist a state agency that has not implemented an effective risk management program to implement a comprehensive program that meets the guidelines established by the board;

(7) administer the workers' compensation insurance program for state employees established under Chapter 501; and

(8) provide risk management services for employees of community supervision and corrections departments established under Chapter 76, Government Code, as if the employees were employees of a state agency.

(c) The office shall:

(1) perform risk management for each state agency subject to this chapter, except to any extent limited by Subsection (j); and

(2) purchase insurance coverage under any line of insurance other than health or life insurance, including liability insurance authorized under Chapter 612, Government Code, for a state agency subject to Chapter 501, except for:

(A) an institution subject to Section 501.022; or

(B) the Texas State University System or a component institution of that system.

(d) The board by rule shall develop an implementation schedule for the purchase under this section of insurance for state agencies by the office. The board shall phase in, by line of insurance, the requirement that a state agency purchase coverage only through the office.

(e) A state agency subject to Chapter 501, except for an institution subject to Section 501.022 or the Texas State University System or a component institution of that system, may not purchase property, casualty, or liability insurance coverage without the approval of the board.

(f) The office shall work with each state agency to develop an agency-level continuity of operations plan under Section 412.054.

(g) The office shall make available to each agency subject to Section 412.054 guidelines and models for each element listed in Section 412.054. The office shall assist the agency as necessary to ensure that:

(1) agency staff understands each element of the continuity of operations plan developed under Section 412.054; and

(2) each agency provides training and conducts testing and exercises that prepare the agency for implementing the plan.

(h) The office and the Texas Building and Procurement Commission shall adopt a memorandum of understanding that:

(1) includes the type, amount, and frequency of safety-related information that may be shared between the office and the commission; and

(2) designates points of contact within the office and the commission to coordinate the sharing of information.

(i) The office shall:

(1) maintain a system to promptly and efficiently act on complaints filed with the office;

(2) maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and disposition of the complaint;

(3) make information available describing the office's procedures for complaint investigation and resolution; and

(4) periodically notify the complaint parties of the status of the complaint until final disposition.

(j) The Texas State University System or a component institution of that system shall perform risk management services related to insurance coverage purchased by the system or institution without board approval.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.01, eff. Sept. 1, 2002; Acts 2003, 78th Leg., ch. 527, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 509 (H.B. 796), Sec. 1, eff. June 16, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1045 (H.B. 1832), Sec. 1, eff. June 19, 2015.

Sec. 412.0111. AFFILIATION WITH OFFICE OF ATTORNEY GENERAL. The office is administratively attached to the office of the attorney general and the office of the attorney general shall provide the facilities for the office, but the office shall be independent of the office of the attorney general's direction. Added by Acts 2001, 77th Leg., ch. 1017, Sec. 1.02, eff. Sept. 1, 2002. Redesignated from Labor Code Sec. 412.011(c).

Text of section as amended by Acts 2001, 77th Leg., ch. 559, Sec. 1 and Acts 2001, 77th Leg., ch. 1456, Sec. 14.01

Sec. 412.012. FUNDING. The office shall be administered through money appropriated by the legislature and through the allocation program for the financing of state workers' compensation benefits and risk management costs. Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 953, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 559, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1456, Sec. 14.01, eff. June 17, 2001.

Text of section as amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.02

Sec. 412.012. FUNDING. The office shall be administered through money appropriated by the legislature and through:

- (1) interagency contracts for purchase of insurance coverage and the operation of the risk management program; and
- (2) the allocation program for the financing of state workers' compensation benefits.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 953, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1017, Sec. 1.02, eff. Sept. 1,

2002.

Text of section as renumbered from Labor Code Sec. 412.012(b) and amended by Acts 2001, 77th Leg., ch. 559, Sec. 1 and Acts 2001, 77th Leg., ch. 1456, Sec. 14.01

Sec. 412.0121. INTERAGENCY CONTRACTS. (a) Each state agency shall enter into an interagency contract with the office under Chapter 771, Government Code, to pay the costs incurred by the office in administering this chapter for the benefit of that state agency.

(b) Costs payable under the contract include the cost of:

- (1) services of office employees;
- (2) materials; and
- (3) equipment, including computer hardware and software.

(c) The costs of risk management services provided by a state agency under the interagency contract shall be allocated in the same proportion and determined in the same manner as the costs of workers' compensation.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 953, Sec. 4, eff. Sept. 1, 1999. Renumbered from Labor Code Sec. 412.012(b) by Acts 2001, 77th Leg., ch. 559, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1456, Sec. 14.01, eff. June 17, 2001.

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Sec. 412.0121. INTERAGENCY CONTRACTS. (a) Each state agency shall enter into an interagency contract with the office under Chapter 771, Government Code, to pay the costs incurred by the office in administering this chapter for the benefit of that state agency.

(b) Costs payable under the contract include the cost of:

- (1) services of office employees;
- (2) materials; and
- (3) equipment, including computer hardware and software.

(c) The amount of the costs to be paid by a state agency under the interagency contract is based on:

(1) the number of employees of the agency compared with the total number of employees of all state agencies to which this chapter applies;

(2) the dollar value of the agency's property and asset and liability exposure compared to that of all state agencies to which this chapter applies; and

(3) the number and aggregate cost of claims and losses incurred by the state agency compared to those incurred by all state agencies to which this chapter applies.

(d) The board may by rule establish the formula for allocating the cost of this chapter in an interagency contract in a manner that gives consideration to the factors in Subsection (c) and any other factors it deems relevant, including an agency's risk management expenditures, unique risks, and established programs.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 953, Sec. 4, eff. Sept. 1, 1999. Renumbered from Labor Code Sec. 412.012(b) and amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.02, eff. Sept. 1, 2002.

Text of section as renumbered from Labor Code Sec. 412.012(c) and amended by Acts 2001, 77th Leg., ch. 559, Sec. 1, and Acts 2001, 77th Leg., ch. 1456, Sec. 14.01

Sec. 412.0122. STATE SELF-INSURING FOR WORKERS' COMPENSATION. The state is self-insuring with respect to an employee's compensable injury.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 953, Sec. 4, eff. Sept. 1, 1999. Renumbered from Labor Code Sec. 412.012(c) and amended by Acts 2001, 77th Leg., ch. 559, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1456, Sec. 14.01, eff. June 17, 2001.

Text of section as renumbered from Labor Code Sec. 412.012(c) and amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.02

Sec. 412.0122. STATE SELF-INSURING FOR WORKERS' COMPENSATION. (a) The state is self-insuring with respect to an

employee's compensable injury.

(b) The legislature shall appropriate the amount designated by the appropriation structure for the payment of state workers' compensation claims costs to the office. This section does not affect the reimbursement of claims costs by funds other than general revenue funds, as provided by the General Appropriations Act.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.  
Amended by Acts 1999, 76th Leg., ch. 953, Sec. 4, eff. Sept. 1, 1999. Renumbered from Labor Code Sec. 412.012(c) and amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.02, eff. Sept. 1, 2002.

Text of section as added by Acts 2001, 77th Leg., ch. 559, Sec. 1, and Acts 2001, 77th Leg., ch. 1456, Sec. 14.01

Sec. 412.0123. ALLOCATION OF WORKERS' COMPENSATION AND RISK MANAGEMENT COSTS; RISK REWARD PROGRAM.

Text of subsec. (a) as added by Acts 2001, 77th Leg., ch. 559, Sec. 1

(a) The office shall establish an allocation program for the payment of workers' compensation claims and risk management services that are incurred by a state agency subject to Chapter 501.

Text of subsec. (a) as added by Acts 2001, 77th Leg., ch. 1456, Sec. 14.01

(a) The office shall establish a risk reward for the payment of workers' compensation claims and risk management services that are incurred by a state agency subject to Chapter 501.

(b) The office shall establish a formula for allocating the state's workers' compensation costs among covered agencies based on the claims experience of each agency, the current and projected size of each agency's workforce, each agency's payroll, the related costs incurred in administering claims, and other factors that the office determines to be relevant. The agency may provide modifiers to the formula to promote the effective implementation of risk management programs by state agencies.

(c) The board has final authority to determine the assessments to be paid by the covered agencies.

Added by 2001, 77th Leg., ch. 559, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1456, Sec. 14.01, eff. June 17, 2001.

Text of section as renumbered from Labor Code Sec. 412.012(d) by  
Acts 2001, 77th Leg., ch. 1017, Sec. 1.02

Sec. 412.0123. DEPOSIT OF WORKERS' COMPENSATION SUBROGATION RECOVERIES. (a) All money recovered by the director from a third party through subrogation shall be deposited into the state workers' compensation account in general revenue.

(b) Funds deposited under this section may be used for the payment of workers' compensation benefits to state employees.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 953, Sec. 4, eff. Sept. 1, 1999. Renumbered from Labor Code Sec. 412.012(d) and amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.02, eff. Sept. 1, 2002.

Sec. 412.0124. DEPOSIT OF WORKERS' COMPENSATION SUBROGATION RECOVERIES. All money recovered by the director from a third party through subrogation shall be deposited into the state workers' compensation account in general revenue.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 953, Sec. 4, eff. Sept. 1, 1999. Renumbered from Labor Code Sec. 412.012(d) and amended by Acts 2001, 77th Leg., ch. 1456, Sec. 14.01, eff. June 17, 2001; Acts 2001, 77th Leg., ch. 559, Sec. 1, eff. Sept. 1, 2001.

Sec. 412.0125. RETURN-TO-WORK COORDINATION SERVICES; CASE MANAGEMENT. (a) The office shall provide each state agency with return-to-work coordination services as necessary to facilitate an injured employee's return to employment. The office shall notify each state agency of the availability of return-to-work coordination services.

(b) As part of return-to-work coordination services under this section, the office shall:

(1) establish a time frame for case management of an



injured employee that ensures services are provided to the injured employee as soon as practicable to improve the employee's chance of returning to work as quickly as possible;

(2) provide guidance to each state agency to identify appropriate services for an injured employee;

(3) adopt rules that set standards and provide guidance to a state agency interacting with an injured employee; and

(4) implement any other services provided under Section [413.021](#) that will facilitate the reintegration of an injured employee.

Added by Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. [908](#)), Sec. 2, eff. September 1, 2007.

Sec. 412.0126. ANALYSIS. (a) The board shall adopt rules as necessary to collect data on lost time and return-to-work outcomes of each state agency to allow full evaluations of successes and of barriers to achieving timely return to work after an injury.

(b) The office shall:

(1) collect and analyze data from each state agency regarding lost time, including sick leave and annual leave used by an injured employee;

(2) identify state agencies that need additional training or case management services related to return-to-work services;

(3) modify as necessary the office's assessment computation to encourage state agencies to effectively reduce workers' compensation costs;

(4) incorporate as necessary return-to-work goals developed by the division of workers' compensation under Section [413.025](#);

(5) work with the workers' compensation research and evaluation group to develop analytical tools to assist the office with its duties under this section;

(6) require state agencies to report information in a standardized format;

(7) monitor the information reported by each state agency; and

(8) evaluate the information provided under this section to determine outcomes over time for each state agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 2, eff. September 1, 2007.

Sec. 412.0127. PAYMENT BY ELECTRONIC FUNDS TRANSFER. (a) Notwithstanding Section 403.016, Government Code, and except as provided by Subsection (b), the office shall pay an employee entitled to an indemnity benefit payment using the same payment method as the method by which the employee receives the employee's wages.

(b) The office shall adopt rules to facilitate the use of electronic funds transfer as the preferred method of payment under this section.

(c) The office may issue an indemnity benefit payment by check on request or if electronic funds transfer is not feasible.

Added by Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 2, eff. September 1, 2007.

Sec. 412.0128. CONFIDENTIALITY OF INFORMATION. (a) Information in or derived from a workers' compensation claim file regarding an employee, and information in or derived from a risk management review related to facility security or continuity of operations, is confidential and is exempt from disclosure under Chapter 552, Government Code, and may not be disclosed by the office except as provided by Subsection (b), other provisions of this subchapter, or other law. Classified or sensitive information specifically preempted from disclosure by federal law retains the confidentiality protection provided by this section for all purposes, including disclosure to the office.

(b) Forms, standards, and other instructional, informational, or planning materials adopted by the office to provide guidance or assistance to a state agency in developing a continuity of operations plan under Section 412.054 are public information subject to disclosure under Chapter 552, Government

Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 2.11, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1045 (H.B. 1832), Sec. 2, eff. June 19, 2015.

Sec. 412.013. REVIEW AND UPDATE OF RISK MANAGEMENT PROGRAM GUIDELINES. (a) In administering the guidelines for a comprehensive risk management program under Section 412.011(b)(4), the office must:

(1) at least biennially review the guidelines to determine whether they are appropriate and current; and

(2) at least every five years, update the guidelines to be consistent with up-to-date industry best practices and current law.

(b) In updating the guidelines under Subsection (a)(2), the office must solicit feedback from state entities concerning topics for inclusion in the guidelines and ways for making the guidelines more user-friendly.

Added by Acts 2019, 86th Leg., R.S., Ch. 19 (S.B. 612), Sec. 1, eff. September 1, 2019.

#### SUBCHAPTER C. BOARD

Sec. 412.021. RISK MANAGEMENT BOARD. (a) The office is governed by the risk management board. Members of the board must have demonstrated experience in the fields of:

(1) insurance and insurance regulation;

(2) workers' compensation; and

(3) risk management administration.

(a-1) A person may not be a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by or

receiving money from the office;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the office; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the office other than compensation or reimbursement authorized by law for risk management board membership, attendance, or expenses.

(b) The board is composed of five members appointed by the governor.

(c) Members of the board hold office for staggered terms of six years with one or two members' terms expiring February 1 of each odd-numbered year. A member appointed to fill a vacancy shall hold office for the remainder of that term.

(d) The governor shall designate one member of the board as presiding officer. The presiding officer shall serve in that capacity at the pleasure of the governor.

(e) The board is subject to Chapters 552 and 2001, Government Code.

(f) The risk management board and the office are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this section expires September 1, 2031.

(g) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(h) The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the director and the staff of the risk management office.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.03, eff. Sept. 1, 2002; Acts 2001, 77th Leg., ch. 1481, Sec. 3.02, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1170, Sec. 40.01, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 3, eff.

September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 19 (S.B. 612), Sec. 2, eff. September 1, 2019.

Sec. 412.022. TRAINING PROGRAM FOR BOARD MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the board member with information regarding:

- (1) the law governing the office's operations;
- (2) the programs, functions, rules, and budget of the office;
- (3) the scope of and limitations on the rulemaking authority of the board;
- (4) the results of the most recent formal audit of the office;
- (5) the requirements of:
  - (A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and
  - (B) other laws applicable to members of a state policymaking body in performing their duties; and
- (6) any applicable ethics policies adopted by the office or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The director of the office shall create a training manual that includes the information required by Subsection (b). The director shall distribute a copy of the training manual annually to each member of the board. Each member of the board shall sign and submit to the director a statement acknowledging that the member received and has reviewed the training manual.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.  
Amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.04, eff. Sept. 1, 2002.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 4, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 19 (S.B. 612), Sec. 3, eff. September 1, 2019.

Sec. 412.023. EFFECT OF LOBBYING ACTIVITY. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be an employee of the office employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of insurance or health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of insurance or health care.

(c) A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the office.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 5, eff. September 1, 2007.

Sec. 412.024. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of taking office the qualifications required by Section 412.021;

(2) does not maintain during service on the board the qualifications required by Section 412.021;

(3) is ineligible for membership under Section 412.021 or 412.023;

(4) cannot because of illness or incapacity discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(a-1) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(b) If the director knows that a potential ground for removal exists, the director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest officer of the board, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 6, eff. September 1, 2007.

Sec. 412.027. USE OF TECHNOLOGY. The board shall implement a policy requiring the office to use appropriate technological solutions to improve the office's ability to perform its functions. The policy must ensure that the public is able to interact with the office on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 7,

eff. September 1, 2007.

SUBCHAPTER D. GENERAL POWERS AND DUTIES OF BOARD

Sec. 412.031. RULEMAKING AUTHORITY. The board shall adopt rules as necessary to implement this chapter and Chapter 501, including rules relating to reporting requirements for a state agency.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Sec. 412.032. BOARD'S REPORT TO LEGISLATURE. (a) Based on the recommendations of the director, the board shall report to each legislature relating to:

(1) methods to reduce the exposure of state agencies to the risks of property and liability losses, including workers' compensation losses;

(2) the operation, financing, and management of those risks;

(3) the handling of claims brought against the state;

(4) return-to-work outcomes under Section 412.0126 for each state agency; and

(5) the continuity of operations plan developed by state agencies under Section 412.054.

(b) The report must include:

(1) the frequency, severity, and aggregate amount of open and closed claims in the preceding biennium by category of risk, including final judgments;

(2) the identification of each state agency that has not complied with the risk management guidelines and reporting requirements of this chapter;

(3) recommendations for the coordination and administration of a comprehensive risk management program to serve all state agencies, including recommendations for any necessary statutory changes;

(4) a report of outcomes by state agency of lost time due to employee injury and return-to-work programs based on the information collected and analyzed by the office in Section



[412.0126](#); and

(5) an evaluation of continuity of operations plans developed by state agencies under Section [412.054](#) for completeness and viability.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. [908](#)), Sec. 8, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1045 (H.B. [1832](#)), Sec. 3, eff. June 19, 2015.

Sec. 412.033. HIRING DIRECTOR. The board shall hire a qualified person to serve as director of the office. The director serves at the pleasure of the board.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Sec. 412.034. PUBLIC HEARING. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the office.

Added by Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. [908](#)), Sec. 9, eff. September 1, 2007.

Sec. 412.035. DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter [2008](#), Government Code, for the adoption of office rules; and

(2) appropriate alternative dispute resolution procedures under Chapter [2009](#), Government Code, to assist in the resolution of internal and external disputes under the office's jurisdiction.

(b) The office's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy

adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the office.

Added by Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 10, eff. September 1, 2007.

#### SUBCHAPTER E. DIRECTOR

Sec. 412.041. DIRECTOR DUTIES. (a) The director serves as the state risk manager.

(b) The director shall supervise the development and administration of systems to:

(1) identify the property and liability losses, including workers' compensation losses, of each state agency;

(2) identify the administrative costs of risk management incurred by each state agency;

(3) identify and evaluate the exposure of each state agency to claims for property and liability losses, including workers' compensation; and

(4) reduce the property and liability losses, including workers' compensation, incurred by each state agency.

(c) In addition to other duties provided by this chapter, by Chapter 501, and by the board, the director shall:

(1) keep full and accurate minutes of the transactions and proceedings of the board;

(2) be the custodian of the files and records of the board;

(3) prepare and recommend to the board plans and procedures necessary to implement the purposes and objectives of this chapter and Chapter 501, including rules and proposals for administrative procedures consistent with this chapter and Chapter 501;

(4) hire staff as necessary to accomplish the objectives of the board and may delegate powers and duties to

members of that staff as necessary;

(5) be responsible for the investigation of complaints and for the presentation of formal complaints;

(6) attend all meetings of the board as a nonvoting participant; and

(7) handle the correspondence of the board and obtain, assemble, or prepare the reports and information that the board may direct or authorize.

(d) If necessary to the administration of this chapter and Chapter 501, the director, with the approval of the board, may secure and provide for services that are necessary and may employ and compensate within available appropriations professional consultants, technical assistants, and employees on a full-time or part-time basis.

(e) The director also serves as the administrator of the government employees workers' compensation insurance program.

(f) In administering and enforcing Chapter 501 as regards a compensable injury with a date of injury before September 1, 1995, the director shall act in the capacity of employer and insurer. In administering and enforcing Chapter 501 as regards a compensable injury with a date of injury on or after September 1, 1995, the director shall act in the capacity of insurer.

(g) The director shall act as an adversary before the division and courts and present the legal defenses and positions of the state as an employer and insurer, as appropriate.

(h) For the purposes of Subsection (f) and Chapter 501, the director is entitled to the legal counsel of the attorney general.

(i) In administering Chapter 501, the director is subject to the rules, orders, and decisions of the commissioner in the same manner as a private employer, insurer, or association.

(j) The director shall:

(1) prepare for adoption by the board procedural rules and prescribe forms necessary for the effective administration of this chapter and Chapter 501; and

(2) prepare for adoption by the board and enforce reasonable rules for the prevention of accidents and injuries.

(k) The director shall hold hearings on all proposed rules

and provide reasonable opportunity for the officers of state agencies to testify at hearings on all proposed rules under this chapter and Chapter 501.

(1) The director shall furnish copies of all rules to:

(1) the commissioner of insurance;

(2) the commissioner; and

(3) the administrative heads of all state agencies affected by this chapter and Chapter 501.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.05, eff. Sept. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 3.225, eff. September 1, 2005.

Sec. 412.042. REPORTS TO THE LEGISLATURE. (a) The director shall report to the legislature at the beginning of each regular session regarding the services provided by the office to a state agency subject to Chapter 501.

The report required under this subsection shall be dated January 1 of the year in which the regular session is held and must include:

(1) a summary of administrative expenses;

(2) a statement:

(A) showing the amount of the money appropriated by the preceding legislature that remains unexpended on the date of the report; and

(B) estimating the amount of that balance necessary to administer Chapter 501 for the remainder of that fiscal year; and

(3) an estimate, based on experience factors, of the amount of money that will be required to administer Chapter 501 and pay for the compensation and services provided under Chapter 501 during the next succeeding biennium.

(b) In addition to the report required under Subsection (a), the director shall report to the legislature not later than February 1 of each odd-numbered year regarding insurance coverage

purchased for state agencies, premium dollars spent to obtain that coverage, and losses incurred under that coverage.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1049, Sec. 9.01(a)(11), eff. September 1, 2011.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 953, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1017, Sec. 1.06, eff. Sept. 1, 2002.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 9.01(a)(11), eff. September 1, 2011.

#### SUBCHAPTER F. STATE AGENCIES

Sec. 412.051. DUTIES OF STATE AGENCIES; INSURANCE NOTIFICATION REQUIREMENTS. (a) Each state agency shall actively manage the risks of that agency by:

(1) developing, implementing, and maintaining programs designed to assist employees who sustain compensable injuries to return to work; and

(2) cooperating with the office and the Texas Department of Insurance in the purchase of property, casualty, and liability lines of insurance coverage.

(b) Subject to Section 412.011, each state agency that intends to purchase property, casualty, or liability insurance coverage in a manner other than through the services provided by the office shall notify the office of the intended purchase in the manner prescribed by the office. The state agency shall notify the office of the intended purchase not later than the 30th day before the date on which the purchase of the coverage is scheduled to occur. The office may require a state agency to submit copies of insurance forms, policies, and other relevant information.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.07, eff. Sept. 1, 2002.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 81, eff.

September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 82, eff. September 1, 2013.

Sec. 412.052. EXEMPTION OF CERTAIN STATE AGENCIES. This chapter does not apply to a state agency that had medical malpractice insurance coverage, workers' compensation insurance coverage, or other self-insurance coverage with associated risk management programs before January 1, 1989.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Sec. 412.053. ANNUAL REPORT BY STATE AGENCY. (a) Each state agency shall report to the director for each fiscal year:

(1) the location, timing, frequency, severity, and aggregate amounts of losses by category of risk, including open and closed claims and final judgments;

(2) loss information obtained by the state agency in the course of its administration of the workers' compensation program;

(3) detailed information on existing and potential exposure to loss, including property location and values, descriptions of agency operations, and estimates of maximum probable and maximum possible losses by category of risk;

(4) estimates by category of risk of losses incurred but not reported;

(5) information the director determines necessary to prepare a Texas Workers' Compensation Unit Statistical Report; and

(6) additional information that the director determines to be necessary.

(b) The information shall be reported not later than the 60th day after the last day of each fiscal year.

(c) This section does not apply to an institution of higher education or university system. In this subsection, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

Added by Acts 1997, 75th Leg., ch. 1098, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1017, Sec. 1.08, eff. Sept. 1,

2002.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 6.13, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 19 (S.B. 612), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.40, eff. September 1, 2019.

Sec. 412.054. CONTINUITY OF OPERATIONS PLAN. (a) Each state agency shall work with the office to develop an agency-level continuity of operations plan that outlines procedures to keep the agency operational in case of disruptions to production, finance, administration, or other essential operations. The plan must include detailed information regarding resumption of essential services after a catastrophe, including:

- (1) coordination with public authorities;
- (2) management of media;
- (3) customer service delivery;
- (4) assessing immediate financial and operational needs; and
- (5) other services as determined by the office.

(b) A continuity of operations plan that meets the requirements of this section must be submitted by each state agency that is:

- (1) involved in the delivery of emergency services as a member of the governor's Emergency Management Council;
- (2) part of the State Data Center program; or
- (3) subject to this chapter or Chapter 501.

(c) Except as otherwise provided by this section, the following information is confidential and is exempt from disclosure under Chapter 552, Government Code:

- (1) a continuity of operations plan developed under this section; and
- (2) any records written, produced, collected, assembled, or maintained as part of the development or review of a continuity of operations plan under this section.

(d) Forms, standards, and other instructional, informational, or planning materials adopted by the office to provide guidance or assistance to a state agency in developing a continuity of operations plan under this section are public information subject to disclosure under Chapter 552, Government Code.

(e) A state agency may disclose or make available information that is confidential under this section to another state agency, a governmental body, or a federal agency.

(f) Disclosing information to another state agency, a governmental body, or a federal agency under this section does not waive or affect the confidentiality of that information.

Added by Acts 2007, 80th Leg., R.S., Ch. 407 (S.B. 908), Sec. 11, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1045 (H.B. 1832), Sec. 4, eff. June 19, 2015.