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SENATE BILL 590

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

DUNCAN SCOTT

AN ACT

RELATING TO STATE AGENCY FUNDS; PROVIDING FOR DEPOSIT AND
INVESTMENT OF CERTAIN FUNDS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-2-16 NMSA 1978 (being Laws 1978, Chapter 132, Section 4, as amended) is amended to read:

"10-2-16. SURETY BOND FUND.--

A. There is created [~~in the state treasury~~] a "surety bond fund". The fund and any income from the fund shall be held in trust, deposited in a segregated account and invested by the department with the prior approval of the state board of finance.

B. Money deposited in the surety bond fund may be expended by the department:

- (1) to provide surety bond coverage;
- (2) to create a retention fund to cover all or any portion of the surety bond risks of state agencies and covered educational entities;
- (3) to pay claims of state agencies and covered educational entities

1 covered by a surety bond certificate of coverage issued by the department; and

2 (4) to pay any costs and expenses of carrying out the provisions of
3 this section.

4 C. Claims against the surety bond fund shall be made in accordance with a
5 certificate of coverage issued by the department to each state agency and covered educational
6 entity. If the secretary has reason to believe that the surety bond fund would be exhausted by
7 the payment of all claims allowed against the fund during a particular state fiscal year, the
8 amounts paid for each claim shall be prorated with each state agency and covered educational
9 entity receiving an amount equal to the percentage that its claims bear to the total of claims
10 outstanding and payable from the fund. Any amounts due and unpaid as a result of such
11 proration shall be paid in the following fiscal years.

13 D. The department shall collect or transfer funds from each state agency and
14 covered educational entity to cover costs of coverage of employees of the agency as required
15 by this section. Money collected or transferred from a state agency or covered educational
16 entity pursuant to this subsection shall be deposited in the surety bond fund.

17 E. The department may provide individual surety bond coverage protecting
18 employees who are employers or supervisors from personal losses for which they may be
19 responsible, which losses were caused by the lack of honesty or faithful performance of
20 employees under their supervision or control.

22 F. The department shall have the right to recover from a public employee for
23 any loss under the Surety Bond Act for which the public employee was responsible.

24 G. The risk management advisory board shall review:

25 (1) specifications for all surety bond coverage to be purchased by the
department;

(2) the form and legal sufficiency of any surety bond coverage to be

Underscored material = new
[bracketed material] = delete

1 purchased by the department; and

2 (3) the form, purpose and content of any surety bond certificate of
3 coverage to be issued by the director."

4 Section 2. Section 13-5-1 NMSA 1978 (being Laws 1981, Chapter 101, Section 1, as
5 amended) is amended to read:

6 "13-5-1. STATE AGENCY PUBLIC PROPERTY--INSURANCE--RESERVES FOR
7 LOSSES OF STATE AGENCIES--PUBLIC PROPERTY RESERVE FUND CREATED.--

8 A. The risk management division of the general services department shall
9 purchase a blanket insurance policy for public buildings of state agencies against loss or
10 damage by fire, windstorm, hail, smoke, explosion, riot or civil commotion. The risk
11 management division may provide coverage to covered educational entities under the public
12 property reserve fund through blanket or individual policies. The risk management division
13 shall create a reserve for the uninsured value of any such public building and for the uninsured
14 loss or damage to any such building by flood, subject to any deductible [~~which~~] that the risk
15 management advisory board determines shall be borne by individual state agencies or covered
16 educational entities.
17

18 B. Subject to any deductible to be borne by individual state agencies or
19 covered educational entities, the risk management division of the general services department
20 may purchase insurance, establish reserves or provide a combination of insurance and reserves
21 to:
22

23 (1) cover, in any amount not to exceed replacement cost, buildings of
24 state agencies or covered educational entities destroyed or damaged by any peril other than a
25 peril set forth in Subsection A of this section;

(2) cover, in any amount not to exceed replacement cost, any personal
property [~~which~~] that is destroyed or damaged by any peril; or

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[bracketed material] = delete

1 (3) cover, in any amount not to exceed replacement cost, any personal
2 property [~~which~~] that is stolen.

3 C. Any insurance purchased pursuant to Subsections A and B of this section
4 may be purchased with such deductible provisions as may be deemed desirable by the risk
5 management advisory board.

6 D. The director of the risk management division of the general services
7 department shall include in his annual report to the legislature an inventory of all public
8 buildings insured by the division, the estimated total value of such buildings, the total insured
9 value of such buildings and the amount of any deductible or maximum loss provisions in the
10 current insurance policy covering such buildings.

11 E. There is created [~~in the state treasury~~] the "public property reserve fund".
12 The fund and any income from the fund shall be held in trust, deposited in a segregated account
13 and invested by the general services department with the prior approval of the state board of
14 finance. The fund shall consist of assessments of state agencies and covered educational en-
15 tities deposited in the fund, money appropriated to the fund and money received as proceeds of
16 insurance purchased pursuant to this section. The fund may be used to:

17 (1) purchase property insurance;
18 (2) pay any claim covered by a certificate of coverage issued by the
19 director of the risk management division of the general services department; provided such
20 claims shall only be paid to the extent of actual expenses [~~which~~] that have been or will be
21 incurred to repair, reconstruct and replace covered property;
22

23 (3) pay the cost of repair, reconstruction and replacement of property
24 and expense incidental thereto arising from damage or destruction covered pursuant to this
25 section;

(4) enter into such consulting and other contracts as may be necessary

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1 or desirable in carrying out the provisions of this section; and

2 (5) pay any costs and expenses incurred in carrying out the provisions
3 of this section.

4 F. The director of the legislative council service may elect to cover all or any
5 part of any public buildings or property under his jurisdiction through the public property
6 reserve fund by giving written notice of such election to the director of the risk management
7 division of the general services department and paying assessments [~~which~~] that the director of
8 the risk management division prescribes.

9
10 G. For purposes of this section, "state agency" means the state or any of its
11 branches, agencies, departments, boards, instrumentalities or institutions.

12 H. For the purposes of this section, "covered educational entities" means
13 school districts as defined in Section 22-1-2 NMSA 1978 and educational institutions
14 established pursuant to Chapter 21, Articles 13, 16 and 17 NMSA 1978 [~~which~~] that request
15 and are granted coverage from the risk management division of the general services
16 department, if the coverage is commercially unavailable; except that coverage shall be provided
17 to a school district only through the public school [~~group~~] insurance authority or its successor
18 unless the district has been granted a waiver by the authority or the authority is not offering the
19 coverage for the fiscal year for which the division offers its coverage. A local school district to
20 which the division may provide coverage may provide for marketing and servicing to be done
21 by licensed insurance agents who shall receive reasonable compensation for their services.

22
23 [~~I. The provisions of this section are effective July 1, 1990.]~~"

24 Section 3. Section 15-7-6 NMSA 1978 (being Laws 1977, Chapter 385, Section 9, as
25 amended) is amended to read:

"15-7-6. WORKERS' COMPENSATION RETENTION FUND.--

A. There is created [~~in the state treasury~~] the "workers' compensation retention

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1 fund". The fund and any interest from the fund shall be held in trust, deposited in a segregated
2 account and invested by the general services department with the prior approval of the state
3 board of finance.

4 B. Money deposited in or appropriated to the workers' compensation retention
5 fund may be used by the director to:

- 6 (1) purchase workers' compensation insurance;
7
8 (2) establish appropriate reserves to provide workers' compensation
9 coverage for employees of state agencies or employees of covered educational entities;
10
11 (3) pay workers' compensation claims in accordance with the
Workers' Compensation Act;
12
13 (4) enter into consulting and other contracts as may be necessary or
desirable in carrying out the provisions of this section; and
14
15 (5) pay any costs or expenses incurred in carrying out the provisions
of this section.

16 C. For the purposes of this section, "covered educational entities" means
17 school districts as defined in Section 22-1-2 NMSA 1978 and educational institutions
18 established pursuant to Chapter 21, Articles 13, 16 and 17 NMSA 1978 [~~which~~] that request
19 and are granted coverage from the risk management division of the general services de-
20 partment, if the coverage is commercially unavailable; except that coverage shall be provided
21 to a school district only through the public school [~~group~~] insurance authority or its successor
22 unless the district has been granted a waiver by the authority or the authority is not offering the
23 coverage for the fiscal year for which the division offers its coverage. A local school district to
24 which the division may provide coverage may provide for marketing and servicing to be done
25 by licensed insurance agents, who shall receive reasonable compensation for their services."

Section 4. APPROPRIATION.--

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A. Thirteen million eight hundred eighty-two thousand fifty-four dollars (\$13,882,054) is appropriated from the general fund to the risk management division of the general services department for disbursement in fiscal year 1997 to the following funds in the following amounts for expenditure for the following purposes:

(1) four hundred two thousand sixty-four dollars (\$402,064) to the surety bond fund for expenditure pursuant to the provisions of Section 10-2-16 NMSA 1978;

(2) nine hundred eighty-four thousand eight hundred twenty-nine dollars (\$984,829) to the public property reserve fund for expenditure pursuant to the provisions of Section 13-5-1 NMSA 1978; and

(3) twelve million four hundred ninety-five thousand one hundred sixty-one dollars (\$12,495,161) to the workers' compensation retention fund for expenditure pursuant to the provisions of Section 15-7-6 NMSA 1978.

B. Any unexpended or unencumbered balance remaining from the appropriation in Subsection A of this section at the end of any fiscal year shall not revert to the general fund.

1 **FORTY-SECOND LEGISLATURE**
2 **SECOND SESSION, 1996**
3
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5 JANUARY 31, 1996
6

7 Mr. President:
8

9 Your **COMMITTEES' COMMITTEE**, to whom has been referred
10

11 **SENATE BILL 590**
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13
14 has had it under consideration and finds same to be **GERMANE**, PURSUANT TO
15 CONSTITUTIONAL PROVISIONS, and thence referred to the **FINANCE COMMITTEE**.
16

17 Respectfully submitted,
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24 **SENATOR MANNY M. ARAGON, Chairman**
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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