

## **BILL ANALYSIS**

C.S.S.B. 908  
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Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Legislature created the State Office of Risk Management (SORM) in 1997 to assist state agencies in protecting their employees and the State's physical and financial assets by reducing and controlling risk. SORM is administratively attached to the Office of the Attorney General and has three primary functions: administering the government employees workers' compensation insurance program; providing risk management services to state agencies; and coordinating state agency purchases of property, casualty, and liability insurance. In Fiscal Year 2006, SORM covered approximately 172,000 employees with \$44.8 million in claims costs per year, with an authorized staff of 124 employees and an annual administrative budget of approximately \$8 million.

SORM is subject to the Sunset Act and will be abolished on September 1, 2007, unless continued by the Legislature. The Sunset Commission found that managing the insurance and risk management needs of state agencies is needed and that SORM is successful in its mission, but some of its processes could be improved to better prepare the agency to handle its responsibilities.

C.S.S.B. 908 implements the recommendations of the Sunset Commission.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the State Office of Risk Management and the Risk Management Board in SECTION 2 and to the Risk Management Board, the Commissioner of Insurance, and the Texas Building and Procurement Commission in SECTION 12 of this bill.

### **ANALYSIS**

C.S.S.B. 908 requires the State Office of Risk Management (SORM) to provide state agencies with return-to-work coordination services to facilitate injured employees' return to work. Coordination services include establishing a time frame in which the employer must initiate case management for the injured worker, providing guidance to each agency to identify appropriate services, and adopting rules to guide agencies' interactions with the injured employees. The bill requires the Risk Management Board (board) to adopt rules to guide the collection and evaluation of lost time and return to work information. C.S.S.B. 908 requires SORM: to collect and analyze certain data on lost time from each state agency to identify agencies in need of training or case management services related to return-to-work services; to modify, as needed, the assessment computation to encourage agencies to reduce their workers' compensation costs; to incorporate as necessary return-to-work goals developed by the division of workers' compensation (division); to work with the workers' compensation research and evaluation group (WCREG) to develop analytical tools to assist SORM with its duties; to require state agencies to report data in a standardized format; to monitor the information reported by each state agency; and to report return-to-work outcomes by agency to the Legislature.

C.S.S.B. 908 requires SORM to study how the state could structure its worker's compensation program to prepare for claims resulting from a disaster. This bill requires SORM to study various options, such as establishing a state employee workers' compensation catastrophe fund outside of the State Treasury, the purchase of catastrophe reinsurance, or other options to prepare the state for catastrophic claims. C.S.S.B. 908 also requires SORM to work with the WCREG and authorizes SORM to contract with a consultant to estimate the appropriate size for a

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catastrophe fund or level of reinsurance. The bill requires SORM to report the findings of this study to the Legislature by September 1, 2008.

C.S.S.B. 908 requires SORM to issue workers' compensation payments in the same manner as an employee receives wages, including electronic funds transfer (direct deposit), unless payment by electronic funds transfer is not feasible or if a check is requested or the employee. The bill requires SORM to adopt rules to implement electronic funds transfer as the preferred method of issuing indemnity payments; and requires SORM to implement direct deposit payments by February 1, 2008.

C.S.S.B. 908 requires all state agencies to develop agency-level business continuity plans that outline procedures to keep the agency operational in case of disruptions to production, finance, administration, or other essential operations. The bill requires plans to include detailed information regarding resumption of essential services after a catastrophe including coordination with public authorities, management of media, customer service delivery, and assessing immediate financial and operational needs. Except for providing copies to SORM, the bill exempts agencies already involved in the delivery of emergency services as a member of the Governor's Emergency Management Council or as part of the State Data Center program, and requires SORM to assist state agencies with the development of business continuity plans by making available guidelines and models for key elements of the plan. The bill also requires SORM to work with agencies to ensure that agency staff understand plan elements and that agencies practice implementation of the plan. The bill requires SORM to evaluate each agency's plan for completeness and viability, and to report biennially to the Legislature on the efforts of state agencies to develop and maintain business continuity plans.

C.S.S.B. 908 requires SORM and Texas Building and Procurement Commission (TBPC) to enter into a memorandum of understanding on exchange of safety related information. The bill requires the memorandum of understanding to detail the type, amount, and frequency of safety-related information that should be shared and designate points of contact within the two agencies. The bill also requires that SORM be added to the current statutorily required memorandum of understanding between State Fire Marshal's Office (SFMO) and TBPC, and that SORM be copied on communication between SFMO and TBPC concerning fire-related hazards.

C.S.S.B. 908 provides that information in or derived from a workers' compensation claim file regarding an employee is confidential and may not be disclosed by SORM except as provided by law.

C.S.S.B. 908 applies standard across-the-board recommendations of the Sunset Commission regarding public membership on the Risk Management Board; the unbiased appointment of Board members; authority for the Governor to designate the presiding officer of the Board; the separation of the Board's policymaking duties from the agency's management responsibility; public participation before the Board; the maintenance of complaint records, including updating parties about the status of complaints; the use of technology; and negotiated rulemaking and alternative dispute resolution policies. The bill also updates standard Sunset across-the-board recommendations regarding conflicts of interest of Board members; the grounds for removal of Board members; and training of Board members before assuming their duties.

C.S.S.B. 908 continues the Risk Management Board for 12 years.

#### **EFFECTIVE DATE**

September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute clarifies that the bill's requirement for the State Office of Risk Management to pay workers' compensation indemnity benefits by direct deposit rather than paper check is pursuant to authority granted in the Labor Code, rather than the Government Code provisions regarding the State Comptroller's standard payment methods.

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The substitute modifies standard Sunset Commission language regarding public membership on the Risk Management Board to remove the restriction on persons registered, certified or licensed by a regulatory agency in the field of insurance or health care.

The substitute clarifies that the requirement for SORM to report on the creation of business continuity plans by state agencies should be made on the overall completeness and viability of plans, not a report on each state agency's plans.

The substitute provides that information about an employee held by SORM in a workers' compensation claim file is confidential and exempt from disclosure under the Public Information Act.

The substitute adds an instructional provision guiding the transition for changes in the prohibitions on or qualifications for Board membership necessitated by standard Sunset provisions. The provision establishes that the changes apply only to a member appointed on or after February 1, 2008.