

By: Ashby

H.B. No. 3105

A BILL TO BE ENTITLED

AN ACT

relating to establishment of the temporary prescribed burn manager self-insurance pool; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle G, Title 10, Insurance Code, is amended by adding Chapter 2155 to read as follows:

CHAPTER 2155. TEMPORARY PRESCRIBED BURN MANAGER SELF-INSURANCE POOL

Sec. 2155.001. DEFINITIONS. In this chapter:

(1) "Fund" means the prescribed burn manager self-insurance fund established under Section 2155.006.

(2) "Prescribed burn manager" means a person who is a certified and insured prescribed burn manager under Section 153.048, Natural Resources Code.

(3) "Program" means the prescribed burn manager self-insurance program administered under this chapter.

(4) "Service" means the Texas Forest Service of The Texas A&M University System.

Sec. 2155.002. PRESCRIBED BURN MANAGER SELF-INSURANCE PROGRAM. (a) The service shall administer a prescribed burn manager self-insurance program that:

(1) identifies and evaluates risks arising from prescribed burns conducted under Chapter 153, Natural Resources Code;

1 (2) maintains a loss-prevention and loss-control
2 program to reduce risks arising from prescribed burns;

3 (3) consolidates and administers prescribed burn risk
4 management and self-insurance programs; and

5 (4) provides prescribed burn self-insurance coverage
6 in accordance with Section 2155.003.

7 (b) The service may employ staff to administer the program.

8 (c) The director of the service may adopt rules to implement
9 and administer the program.

10 Sec. 2155.003. SELF-INSURANCE POOL; COVERAGE. (a) The
11 program shall administer a self-insurance pool to provide general
12 liability coverage for prescribed burns a prescribed burn manager
13 conducts.

14 (b) The coverage may indemnify a participating prescribed
15 burn manager for liability arising from a prescribed burn conducted
16 by the manager. The coverage limits provided must be the minimum
17 amounts required for purposes of Section 153.082, Natural Resources
18 Code, or a lesser amount determined necessary based on the
19 liquidity of the fund after deducting the cost of administering
20 this chapter.

21 (c) The self-insurance pool may not provide coverage for a
22 risk other than a prescribed burn conducted by a participating
23 prescribed burn manager. Prohibited coverage includes:

24 (1) workers' compensation;

25 (2) automobile liability; and

26 (3) errors and omissions or professional liability.

27 (d) Self-insurance coverage provided under this section may

1 be funded only from money available from the fund.

2 (e) The director of the service may establish:

3 (1) eligibility requirements for participation in
4 coverage under this section; and

5 (2) equipment and safety standards for the prescribed
6 burns to be covered under this section.

7 Sec. 2155.004. PARTICIPATION IN SELF-INSURANCE POOL. (a)
8 To participate in coverage provided under Section 2155.003, a
9 prescribed burn manager must submit a written request to the
10 program in the form and manner prescribed by the service.

11 (b) The director of the service shall approve the request
12 for participation if each proposed prescribed burn to be covered
13 meets the eligibility requirements and equipment and safety
14 standards established under Section 2155.003(e).

15 Sec. 2155.005. TRAINING REQUIREMENTS. (a) As a condition
16 for continuing participation in coverage provided under Section
17 2155.003, a participating prescribed burn manager shall complete a
18 wildfire suppression course administered by the service that trains
19 the manager on:

20 (1) proper coordination with this state or local fire
21 departments in the event that a prescribed burn escapes its
22 predetermined boundaries; and

23 (2) proper assistance in the suppression of a
24 naturally occurring wildfire.

25 (b) The service shall:

26 (1) develop the course described by Subsection (a) in
27 compliance with National Wildfire Coordinating Group standards;

1 and

2 (2) maintain records of a participating burn manager's
3 completion of the course.

4 Sec. 2155.006. PRESCRIBED BURN MANAGER SELF-INSURANCE
5 FUND. (a) The fund is an account in a depository selected by the
6 board of regents of The Texas A&M University System in the manner
7 provided by Section 51.003, Education Code, for funds subject to
8 the control of institutions of higher education under Section
9 51.002, Education Code.

10 (b) The fund is composed of:

11 (1) an amount not to exceed \$25 million appropriated
12 by the legislature;

13 (2) money collected under Section 2155.008; and

14 (3) interest accruing on money in the fund.

15 (c) Money in the fund may be spent only for:

16 (1) funding self-insurance under the program; or

17 (2) administering this chapter, including paying the
18 salaries and expenses of staff for the program and the fund.

19 Sec. 2155.007. LIMITATION ON STATE'S LIABILITY. The
20 state's liability for a loss covered by self-insurance provided
21 under this chapter is limited to the assets of the fund, and the
22 state is not otherwise liable for that loss.

23 Sec. 2155.008. SELF-INSURANCE FEE; COST-SHARING
24 REQUIREMENTS. (a) The service may assess and collect a reasonable
25 fee from participating prescribed burn managers to provide
26 self-insurance coverage under this chapter. The service shall also
27 establish reasonable cost-sharing requirements, including

1 appropriate deductibles.

2 (b) In establishing the amount of the fee and the
3 cost-sharing requirements, the service shall consider the amount
4 that could be charged to the prescribed burn manager for similar
5 insurance coverage provided to that prescribed burn manager in
6 accordance with this code and ensure that a deductible is
7 sufficiently high to:

8 (1) deter the use of the self-insurance coverage for
9 minor losses; and

10 (2) ensure the self-insurance coverage is used only
11 for significant losses.

12 (c) The service shall adjust the amount of a premium for the
13 self-insurance coverage under this chapter by using the information
14 collected under Section 2155.009.

15 (d) Money collected under this section shall be deposited to
16 the credit of the fund.

17 Sec. 2155.009. PRESCRIBED BURN DATA COLLECTION. A
18 participating prescribed burn manager shall report in the form and
19 manner prescribed by the service the following information for each
20 prescribed burn the manager conducts:

21 (1) the amount of land burned in acres;

22 (2) the date of the burn; and

23 (3) whether the burn resulted in a financial loss or
24 wildfire response.

25 Sec. 2155.010. EXCESSIVE CLAIMS. If the service determines
26 that a participating prescribed burn manager has made excessive
27 claims under self-insurance coverage under this chapter, the

1 service may:

2 (1) terminate the manager's participation in the
3 self-insurance pool under this chapter; and

4 (2) refer the manager to the prescribed burn board for
5 disciplinary action under Section 153.102, Natural Resources Code,
6 as if the manager violated Chapter 153 of that code.

7 Sec. 2155.011. LEGAL REPRESENTATION. (a) The service may
8 employ an attorney to represent a prescribed burn manager in a
9 liability action for which insurance coverage is provided under
10 this chapter.

11 (b) The attorney general may not provide the services
12 described by Subsection (a).

13 Sec. 2155.012. EXPIRATION OF PROGRAM AND CHAPTER. The
14 program and this chapter expire September 1, 2038. On expiration of
15 the program, the remaining balance in the fund that is not needed to
16 pay claims is transferred to the statewide fire contingency account
17 established under Section 88.117, Education Code.

18 SECTION 2. This Act takes effect September 1, 2023.