

1-1 By: Barrientos S.B. No. 147
1-2 (In the Senate - Filed December 11, 2002; January 29, 2003,
1-3 read first time and referred to Committee on Government
1-4 Organization; April 23, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 April 23, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 147 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the adoption by state agencies of risk management plans
1-11 and risk control strategies.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle B, Title 10, Government Code, is
1-14 amended by adding Chapter 2057 to read as follows:

1-15 CHAPTER 2057. STATE AGENCY RISK MANAGEMENT POLICIES AND RISK
1-16 CONTROL STRATEGIES

1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 Sec. 2057.001. DEFINITIONS. In this chapter:

1-19 (1) "Objective" means a goal to which senior
1-20 management of a state agency and the agency's governing body
1-21 intends to devote a significant portion of their time and attention
1-22 to accomplish during the biennium following a regular legislative
1-23 session.

1-24 (2) "Risk assessment" means:

1-25 (A) the identification of significant
1-26 impediments that may prevent a state agency from achieving its
1-27 goals and objectives; or

1-28 (B) the identification of a significant
1-29 likelihood that an opportunity may be lost for enabling a state
1-30 agency to achieve its goals and objectives.

1-31 (3) "Risk control strategy" means a state agency
1-32 policy, procedure, or process that is designed to signal the
1-33 existence of a risk and mitigate or avoid that risk.

1-34 (4) "Risk management" means the practice of
1-35 identifying and analyzing risks and loss exposures, and taking
1-36 steps to eliminate or minimize the adverse operational or financial
1-37 effects of those risks and exposures.

1-38 (5) "State agency" means a department, commission,
1-39 board, office, authority, or other agency in the executive branch
1-40 of state government, created under the constitution or a statute,
1-41 with statewide authority, including a university system or an
1-42 institution of higher education as defined by Section 61.003,
1-43 Education Code.

1-44 Sec. 2057.002. CONSTRUCTION OF CHAPTER. (a) This chapter
1-45 does not supersede or replace the authority of the State Office of
1-46 Risk Management to provide full risk and insurance management
1-47 services under Chapter 412, Labor Code, or Subchapter C, Chapter
1-48 501, Labor Code.

1-49 (b) This chapter does not supersede or replace the duties of
1-50 state agencies under Chapter 412, Labor Code, or Subchapter C,
1-51 Chapter 501, Labor Code.

1-52 [Sections 2057.003-2057.050 reserved for expansion]

1-53 SUBCHAPTER B. POWERS AND DUTIES

1-54 Sec. 2057.051. ADOPTION OF RISK MANAGEMENT PLAN; STRATEGIC
1-55 PLAN. (a) The governing body of each state agency shall adopt a
1-56 risk management plan for the succeeding strategic planning period.
1-57 The agency shall include the plan as part of the agency's strategic
1-58 plan under Section 2056.002.

1-59 (b) Not later than July 15 of each even-numbered year, the
1-60 state agency shall forward a copy of the risk management plan to the
1-61 State Office of Risk Management.

1-62 Sec. 2057.052. CONTENT OF RISK MANAGEMENT PLAN. (a) The
1-63 risk management plan must include information required by the State

Office of Risk Management, including:

- (1) a risk assessment for the agency;
- (2) risk control strategies for the agency; and
- (3) other information as provided by this section.

(b) The risk management plan must include a business continuity strategy that outlines plans and procedures designed to keep a business operational in the face of potential disruptions, including disruptions of production, finance, administration, and other essential operations.

(c) The risk management and risk control strategies contained in the plan must:

- (1) specify the operational, strategic, and financial objectives of the state agency;
- (2) assess the nature and extent of the risks to achieve those objectives;
- (3) identify any significant risks that may impede the achievement of those objectives;
- (4) identify measures that may lessen or eliminate significant risks, including alternative or contingency measures for implementing the objectives; and
- (5) analyze the likelihood that the risk may occur and the cost of controlling the risk compared to the benefits of managing the risk.

(d) The risk management plan must include a report on the state agency's level of achievement in implementing risk management and risk control strategies, including:

- (1) a review of whether the state agency has achieved the objectives established for the preceding biennium and, if not, whether the state agency will achieve its objectives by the end of the current biennium;
- (2) a description of any significant risk control strategy failings or weaknesses that have been identified during the preceding biennium;
- (3) an assessment of the extent to which the identified failings or weaknesses resulted in unforeseen outcomes that may have prevented the achievement of the state agency's objectives or may have had a material impact on the performance of the state agency's mission;
- (4) an examination in detail of any corrective action by the state agency; and
- (5) an assessment of the state agency's risk control strategy, including a review of the scope and quality of management's ongoing monitoring of risks.

Sec. 2057.053. STATE AGENCY IMPLEMENTATION OF RISK MANAGEMENT PLAN AND RISK CONTROL STRATEGIES. (a) Each state agency shall implement the risk management plan, including the risk control strategies adopted by its governing body under this subchapter.

(b) At least twice each year, the state agency shall provide to the governing body progress reports concerning the implementation of the risk management plan.

(c) The state agency shall promptly notify its governing body of the identification of any significant risk that threatens to impede the achievement of an objective contained in the risk management plan and of the measures taken to mitigate or avoid that risk.

Sec. 2057.054. STATE OFFICE OF RISK MANAGEMENT AND LEGISLATIVE BUDGET BOARD RESPONSIBILITIES. (a) The State Office of Risk Management shall:

- (1) develop information to be used by each state agency in the preparation of a risk management plan under this subchapter, including information to guide each agency regarding risk assessment and risk control strategies; and
- (2) assist each state agency in the preparation of a risk management plan under this subchapter.

(b) The State Office of Risk Management shall include in its report to the legislature under Section 412.032, Labor Code:

- (1) the identity of each state agency that has not developed a risk management plan or that has not made substantial

3-1 progress toward implementation of the risk management plan;
 3-2 (2) a list of significant efforts by state agencies to
 3-3 implement risk control strategies to avoid or mitigate the risks
 3-4 contained in the strategies;
 3-5 (3) an assessment and summary of the state's
 3-6 significant risks and exposures to loss; and
 3-7 (4) recommendations regarding risk control, including
 3-8 recommendations for any necessary statutory changes.

3-9 (c) The Legislative Budget Board and the State Office of
 3-10 Risk Management shall cooperate in preparing the risk management
 3-11 plan portion of the strategic plans required under this subchapter
 3-12 and Section 2056.002.

3-13 SECTION 2. Subsection (b), Section 2056.002, Government
 3-14 Code, is amended to read as follows:

3-15 (b) Except as provided in Subchapter B, Chapter 2057, the
 3-16 [The] Legislative Budget Board and the Governor's Office of Budget
 3-17 and Planning shall determine the elements required to be included
 3-18 in each agency's strategic plan. Unless modified by the
 3-19 Legislative Budget Board and the Governor's Office of Budget and
 3-20 Planning, and except as provided by Subsection (c), a plan must
 3-21 include:

3-22 (1) a statement of the mission and goals of the state
 3-23 agency;

3-24 (2) a description of the indicators developed under
 3-25 this chapter and used to measure the output and outcome of the
 3-26 agency;

3-27 (3) identification of the groups of people served by
 3-28 the agency, including those having service priorities, or other
 3-29 service measures established by law, and estimates of changes in
 3-30 those groups expected during the term of the plan;

3-31 (4) an analysis of the use of the agency's resources to
 3-32 meet the agency's needs, including future needs, and an estimate of
 3-33 additional resources that may be necessary to meet future needs;

3-34 (5) an analysis of expected changes in the services
 3-35 provided by the agency because of changes in state or federal law;

3-36 (6) a description of the means and strategies for
 3-37 meeting the agency's needs, including future needs, and achieving
 3-38 the goals established under Section 2056.006 for each area of state
 3-39 government for which the agency provides services;

3-40 (7) a description of the capital improvement needs of
 3-41 the agency during the term of the plan and a statement, if
 3-42 appropriate, of the priority of those needs;

3-43 (8) identification of each geographic region of this
 3-44 state, including the Texas-Louisiana border region and the
 3-45 Texas-Mexico border region, served by the agency, and if
 3-46 appropriate the agency's means and strategies for serving each
 3-47 region;

3-48 (9) a description of the training of the agency's
 3-49 contract managers under Section 2262.053; ~~and~~

3-50 (10) the risk management plan required under Section
 3-51 2057.051; and

3-52 (11) other information that may be required.

3-53 SECTION 3. This Act takes effect immediately if it receives
 3-54 a vote of two-thirds of all the members elected to each house, as
 3-55 provided by Section 39, Article III, Texas Constitution. If this
 3-56 Act does not receive the vote necessary for immediate effect, this
 3-57 Act takes effect September 1, 2003.

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