

Responsibilities of the Office of Risk Management and Public Entity Pool for Liability (PEPL)

Overview

The South Dakota Office of Risk Management (ORM), through the Public Entity Pool for Liability (PEPL), provides tort liability coverage to the employees of the state of South Dakota. This includes employees for all constitutional offices, members of the SD Legislature, Board of Regents, United Judicial Services and all Boards and Commissions. ORM also administers loss control programs as well as providing several other services to the State of South Dakota. A list summarizing the primary duties of ORM is provided below. Following the list is a brief description of each of these duties.

- 1) Provide general and auto liability coverage for state employees;
- 2) Develop and implement loss control and liability management programs;
- 3) Purchase of insurance;
- 4) Administer litigation services for the Governor;
- 5) Manage the Extraordinary Litigation Fund;
- 6) Issue insurance certificates; and
- 7) Conduct ergonomic assessments.

Brief Description of Primary Duties

- ✦ **Provide General Liability Coverage** - ORM, through PEPL, provides state employees with \$1,000,000 per occurrence in tort liability coverage for general liability, public officials' errors and omissions liability, auto liability, law enforcement liability and some medical malpractice liability.

ORM manages all tort lawsuits against SD state employees. This involves the selection of the most competent attorneys to represent state employees, the monitoring of lawsuits to ensure efficient and cost-effective litigation, and negotiating settlements advantageous to the state. ORM manages all other non-litigated liability claims by ensuring the claims are investigated and handled in an adequate and timely manner and that settlements are negotiated in the manner most advantageous to the State.

ORM also has the responsibility to conduct independent audits of claims administration services and to conduct independent actuarial studies of loss and contingency reserves in order to assure proper administration of the PEPL fund.

- ✦ **Develop and Implement Loss Control and Liability Management Programs** – ORM has the primary responsibility of implementing the risk management objectives of the state to ensure its operations are not impaired by a loss. In order to minimize losses and keep costs down, ORM has implemented an aggressive loss control and liability management programs, which include the following activities:
 - 1) Life safety and hazard identification inspections of occupied state-owned buildings and facilities, including universities and penal institutions;
 - 2) Life safety and hazard identification inspections on occupied state rented space;
 - 3) Liability assessments of state agencies' policies & practices to identify potential risks and exposures;
 - 4) Tracking and reviewing claims, using a risk information management system database to identify trends or situations requiring loss prevention efforts;
 - 5) Advising state agencies on applicable laws, regulations and standards which contribute to a safe environment;
 - 6) Safety and loss control training;
 - 7) Ergonomic assessments upon request; and
 - 8) Reviewing contracts, joint-powers agreements and intergovernmental agreements for appropriate risk management language.

- ✦ **Purchase Insurance** - SDCL §5-23-1 requires that all property and liability insurance be purchased under the supervision of the Bureau of Administration. To accomplish this, ORM selects brokers and insurance companies and negotiates with them to obtain the best product for the best price. ORM purchases the following insurance:

- 1) Liability reinsurance for the PEPL fund;
- 2) Property insurance for all buildings and facilities under control of the Board of Regents;
- 3) Property insurance for many revenue-producing buildings owned by the State of South Dakota;
- 4) Property insurance for the Governor's residence;
- 5) Property insurance for certain specialized vehicles;
- 6) Boiler insurance;
- 7) Aviation insurance; and
- 8) Employee crime bond.

Liability reinsurance premiums are paid with funds from PEPL. Other insurance premiums are paid with funds from the appropriate agency that requires the insurance.

- ✦ **Manage the Extraordinary Litigation Fund** - SDCL §1-14-3.1 Establishes the extraordinary litigation fund which is administered by ORM. This fund is used to pay for plaintiff attorney fee awards, retention of outside counsel, settlement costs, or other litigation expenses not otherwise eligible under the PEPL fund. ORM determines eligibility for use of these funds, manages expenditures and establishes reserves.

- ✦ **Administer the Litigation Services for the Governor** - At the request of the Governor, ORM oversees all legal service contracts and billings in the Administrative branch of State Government. This involves the following responsibilities:
 - 1) Monitoring and limiting state legal contracts and assuring that only highly qualified and ethically-sound firms are hired by state agencies;
 - 2) Assuring legal fees are reasonable;
 - 3) Establishing “master” contracts with selected legal firms that allow state agencies to use their services without engaging in a separate contract;
 - 4) Reviewing all legal contracts for appropriate language; and
 - 5) Reviewing and approving all legal bills incurred by all state agencies under the administrative branch of state government.

- ✦ **Issuance of Insurance Certificates** – ORM issues certificates for auto and liability insurance to agencies that require them in order for their employees to participate in activities at non-state owned facilities or property.

- ✦ **Conduct Ergonomic Assessments** – ORM conducts ergonomic assessments of state employees and their work stations upon request. A written report on results of the assessment including recommendations to improve the comfort of the work station or to change the employee’s ergonomic habits are provided to the employee. Ergonomic training is also provided from time to time.