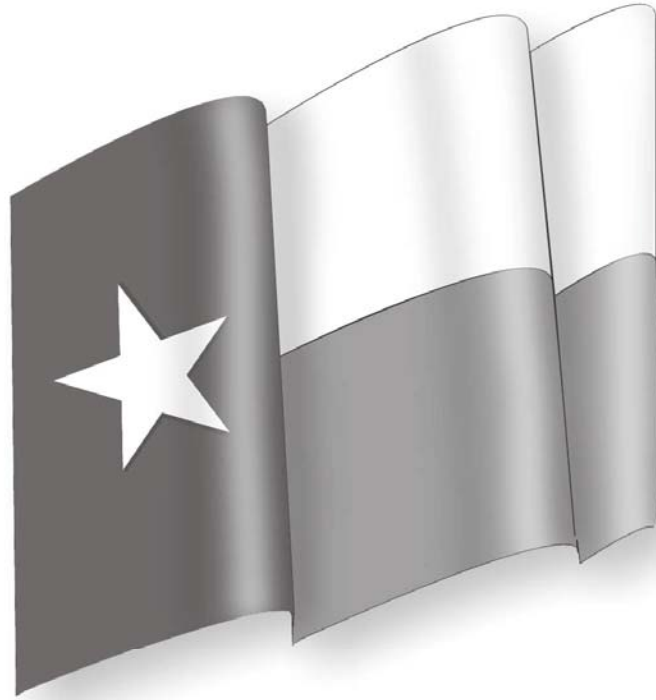


# *Summary of Sunset Commission Recommendations*



**State Office of Risk Management**

**February 2007**





# State Office of Risk Management

## Agency at a Glance

The State Office of Risk Management (SORM) functions as an insurance agency for Texas government. SORM's mission is to assist state agencies in protecting their employees and the State's physical and financial assets by reducing and controlling risk. To accomplish its mission, the agency:

- ◆ administers an employee workers' compensation insurance program;
- ◆ provides risk management services to state agencies; and
- ◆ coordinates state agency purchases of property, casualty, and liability insurance.



*For additional information,  
please contact Steve Hopson  
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## Key Facts

- ◆ **Funding.** SORM's revenue in fiscal year 2006 totaled \$64.7 million including \$57 million in assessments on state agencies for workers' compensation expenses, \$3.6 million from the General Revenue Fund, and \$4.4 million from interagency contracts.
- ◆ **Staffing.** The agency has a staff of 124 employees, all based in Austin.
- ◆ **Workers' Compensation.** SORM administers Texas' self-insured workers' compensation program for state agencies, covering 172,000 employees with about \$54 million in claims costs per year.
- ◆ **Risk Management.** SORM performs consulting work for state agencies to identify and control workplace risks.
- ◆ **State Agency Insurance.** SORM sponsors five lines of insurance for state agencies – directors' and officers', property, special events liability, automobile, and volunteer insurance – to leverage the State's buying power and reduce costs.
- ◆ **Administrative Attachment.** The Office of Attorney General performs administrative functions for SORM including human resources and payroll processing.
- ◆ **Exemptions.** The Texas Department of Transportation, University of Texas System, and Texas A&M University System are exempt from requirements to use SORM's services and each operate their own workers' compensation system. The Employees Retirement System and Teacher Retirement System are also exempt, but use SORM as an insurance provider.

### Board Members (5)

- Ernest C. Garcia, J.D., Chair (Austin)
- Ron J. Walenta, Vice Chair (Dallas)
- Dr. Ronald D. Beals (Tyler)
- Kenneth N. Mitchell (El Paso)
- Martha A. Rider (Houston)

### Agency Head

Jonathan Bow, Executive Director  
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## Recommendations

1. Require SORM to facilitate the return to work of injured employees by expanding its case management program and reporting the lost time and return to work outcomes of state agencies.
2. Require SORM to study how the State could structure its workers' compensation program to be prepared for claims resulting from a disaster and to report options to the Legislature.
3. Require SORM to pay most indemnity benefits by direct deposit.
4. Require state agencies to develop business continuity plans with SORM's consultation and evaluation.
5. Require SORM, the Texas Building and Procurement Commission, and the State Fire Marshal's Office to exchange safety information.
6. Continue the State Office of Risk Management for 12 years.

# Issue 1

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## **The State's Approach to Return to Work Can Result in Higher Than Necessary Workers' Compensation Costs.**

### **Key Findings**

- ◆ The Legislature has placed considerable emphasis on the importance of return to work efforts in the workers' compensation system.
- ◆ Both SORM and state agencies play a key role in returning injured employees to work.
- ◆ Poor return to work outcomes increase workers' compensation costs and cause hardships for injured workers.
- ◆ SORM needs to place more emphasis and resources on return to work services.
- ◆ Other workers' compensation carriers and programs are able to focus more on return to work strategies.

Although SORM must rely on its client agencies to facilitate the return to work of their employees, most state agencies have little experience or incentive to perform well. Facilitating the quick return to work of employees injured on the job reduces the cost of indemnity and medical benefits. Rapid return to work is also better for employees and reduces the cost to employers for hiring and training replacement workers.

### **Recommendations**

#### **Change in Statute**

##### **1.1 Require SORM to develop an expanded case management program that focuses on facilitating the reintegration of injured employees.**

This recommendation builds upon the requirements in House Bill 7, 79th Legislature, that insurance carriers evaluate claims as soon as possible to determine if case management is necessary. SORM should begin case management earlier than it does currently. In addition to facilitating communication between parties and access to appropriate medical treatment, the program should focus on working directly with the injured worker to overcome any barriers to return to work. Case managers should identify injured employees who will need assistance re-entering the workforce early in a claim and help employees access assistance available to them from the Department of Assistive and Rehabilitative Services, the Texas Workforce Commission, their employing agency, and other resources.

##### **1.2 Require SORM to evaluate lost time and return to work outcomes by agency, and report the results to the Legislature.**

This recommendation would allow SORM to measure the success of its return to work efforts and to identify agencies whose claims coordinators or other staff may need additional training or risk management services related to return to work. SORM could also use this information to modify its assessment calculation to make agencies more effective in reducing costs.

## Issue 2

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### ***The State Needs to Be Better Prepared to Pay Workers' Compensation Claims Resulting From a Disaster.***

#### **Key Findings**

- ◆ SORM is inadequately prepared to pay workers' compensation claims resulting from a catastrophic event.
- ◆ Self-insured companies and insurance carriers use many strategies to mitigate the risk of catastrophic claims.
- ◆ Other public, self-insured workers' compensation programs are better prepared to handle catastrophic events.

The Legislature provides funding for state employee workers' compensation to the State Office of Risk Management on a pay-as-you-go basis. Unlike the structure of private insurance carriers, SORM's funding does not include reserves for future obligations or as a cushion against a catastrophic event. Although SORM's funding method keeps current expenditures low, SORM is not structured to adequately protect the State against large claims that may arise from a natural or man-made disaster. In the event of a catastrophe, SORM would have to seek emergency appropriations to pay the cost of workers' compensation claims. However, these requests would arise at the same time that the Legislature would need to fund other emergency items.

#### **Recommendation**

##### **Change in Statute**

##### **2.1 Require SORM to study how the State could structure its workers' compensation program to be prepared for claims resulting from a disaster and to report options to the Legislature.**

This recommendation would require 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 which may be available to the State. SORM should work with the Texas Department of Insurance's Research and Evaluation Group to determine viable options on how the State can better prepare for workers' compensation claims resulting from a disaster. In addition, SORM may wish to contract with a consultant to analyze the costs of potential disasters, and estimate the appropriate size for a catastrophe fund or level of reinsurance needed. SORM should complete the study by September 1, 2008, and transmit it to the Lieutenant Governor, Speaker of the House, and appropriate and standing committees of each house with responsibility for oversight of SORM.

## Issue 3

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### ***Mailing Indemnity Benefit Checks Delays Payments to Injured Workers.***

#### **Key Findings**

- ◆ Paying workers' compensation indemnity benefits by check wastes taxpayer dollars.
- ◆ The Comptroller's Office makes most payments to state employees by direct deposit.
- ◆ The workers' compensation program operated by the Texas Department of Transportation pays most indemnity benefits through direct deposit.
- ◆ Direct deposit delivers workers' compensation benefits faster and reduces hardships for injured workers.

In fiscal year 2005, SORM made 53,000 indemnity benefit payments to injured state employees. Although state employees are accustomed to receiving paychecks by direct deposit, SORM pays 94 percent of indemnity benefits by mailing paper checks. Direct deposit would be faster, safer, less expensive, and convenient for injured workers.

#### **Recommendation**

##### **Change in Statute**

##### **3.1 Require SORM to pay most indemnity benefits by direct deposit.**

This recommendation would save time, effort, and money for both the State and injured workers by requiring the direct deposit of indemnity benefits instead of paper checks. State employees would receive indemnity benefits through the same method they have selected for payroll, so that those currently paid salary by check would be able to receive benefits by check.

## Issue 4

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### ***Many Agencies Are at Risk of Not Being Able to Deliver Needed Services Following a Disaster Due to a Lack of Business Continuity Planning.***

#### **Key Findings**

- ◆ Most state agencies are not prepared to quickly resume business functions after a disaster, leaving state government at risk of serious disruptions.
- ◆ Other states require all state agencies to have comprehensive business continuity plans.

Business continuity plans help state agencies prepare to resume functions after a disruption in normal business operations. In recent years, Texas has experienced a series of natural disasters that highlight the need for this planning. Continuing the functions of each governmental agency following a disruption is an important part in assisting the recovery efforts of the state as a whole. While Texas' key emergency response agencies are well prepared, the majority of state agencies have not planned for the resumption of their business operations and no single state agency is responsible for ensuring that all agencies plan for inevitable interruptions.

## Recommendations

### Change in Statute

#### 4.1 Require all state agencies to develop business continuity plans.

Business continuity plans would include detailed steps for resumption of essential services such as scheduling an emergency workforce, coordination with public authorities, management of media, customer services delivery, and assessing immediate financial or operational needs. Agencies involved in the initial delivery of emergency services as members of the Emergency Management Council or part of the Department of Information Resources state data center project already have plans in place which would be deemed to meet this requirement. The recommendation would only require these agencies to forward their plans to SORM.

#### 4.2 Require SORM to consult with state agencies on business continuity plans by developing guidelines, model plans, and training.

This recommendation would require SORM to assist state agencies with the development of business continuity plans by making available guidelines and models for key elements of the plan. These key elements would include emergency workforce scheduling, coordination with public authorities, and assessing immediate financial or operational needs in addition to other elements. SORM should also work with agencies to ensure plans are workable, that all agency staff are familiarized with plan elements, and that agencies practice implementation of the plan.

#### 4.3 Require SORM to evaluate state agencies' business continuity plans and report the results to the Legislature.

This recommendation would require SORM to biennially report to the Legislature on the efforts of state agencies to develop and maintain business continuity plans. This report would include SORM's evaluation of each agency's plan for completeness and viability.

## Issue 5

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### ***The Three State Agencies With Safety Responsibilities Do Not Communicate Well, Creating the Potential for Harm to State Employees, Visitors, and Property.***

#### Key Findings

- ◆ SORM, SFMO, and TBPC each have a role in overseeing and protecting state buildings, but fail to communicate safety information to each other on a regular basis that could prevent harm to state employees and property.
- ◆ The Legislature has solved such communication failures in the past by requiring agencies with similar goals to work together.

The Legislature has assigned three state agencies – the State Office of Risk Management, State Fire Marshal's Office (SFMO), and Texas Building and Procurement Commission (TBPC) – interrelated responsibilities for protecting state employees and assets. Despite the importance of their missions, the three agencies have not established clear lines of communication, leaving the State at increased risk of harm to people and property.

## Recommendations

### Change in Statute

#### 5.1 **Require SORM and TBPC to enter into a memorandum of understanding on exchange of safety-related information.**

The recommendation would require each agency to agree on means of establishing improved communication links. The memorandum of understanding should detail the type, amount, and frequency of safety-related information that should be shared. This recommendation would also require designated points of contact within each agency to coordinate information.

#### 5.2 **Add SORM to the current statutorily required memorandum of understanding between SFMO and TBPC regarding fire safety.**

This recommendation would add SORM as an official participant in the current interagency agreement. SORM would be copied on communication between SFMO and TBPC concerning fire-related hazards, and would provide relevant information to the other agencies.

## *Issue 6*

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### ***Texas Has a Continuing Need for the State Office of Risk Management.***

#### **Key Findings**

- ◆ SORM effectively accomplishes its mission, and a review of other related agencies did not reveal any significant beneficial alternatives for consolidation or transfer of functions.
- ◆ While organizational structures vary, most states have established a state agency to provide workers' compensation services for state government.

The Legislature recognized the need for a single state agency to provide workers' compensation and risk management functions for other state agencies when it created the State Office of Risk Management in 1997. Since its creation, the Legislature has added the responsibility of overseeing the purchasing of other types of insurance to the agency. Providing these insurance services is important in protecting the State's human and physical assets.

#### **Recommendation**

##### **Change in Statute**

#### 6.1 **Continue the State Office of Risk Management for 12 years.**

This recommendation would continue SORM as an independent agency, responsible for providing workers' compensation, risk management, and insurance purchasing services to state agencies for the standard 12-year period, until 2019.

## *Fiscal Implication Summary*

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When fully implemented, the recommendations would result in a net, first-year cost to the General Revenue Fund of about \$78,000. In addition, one issue will have a one-time cost of \$20,000 that will

be apportioned among state agencies as part of their annual workers' compensation assessment. The specific fiscal impact of these recommendations is summarized below.

*Issue 1* – Requiring SORM to expand case management to facilitate the quick return to work of injured employees would have an annual cost of \$91,700 for the first biennium to hire two additional case managers. By fiscal year 2010, SORM would reduce this annual cost to \$45,850 by eliminating one of the two new positions and relying more on its newly instituted workers' compensation network. Savings in indemnity and medical benefits would offset these costs, but these savings would accrue to state agencies and not directly to the General Revenue Fund.

*Issue 2* – Requiring SORM to study how the State could best prepare to pay workers' compensation claims resulting from a disaster is estimated to cost \$20,000 for consulting services. Consultants would analyze the costs of potential disasters and the size of a catastrophe fund or level of reinsurance. The contract would be paid for from state agency assessments for workers' compensation insurance.

*Issue 3* – Changing the method that SORM uses to pay indemnity benefits to injured state employees from mailing paper checks to direct deposit would have a positive fiscal impact of \$74,700 annually. These savings are based on the assumption that SORM will directly deposit 83 percent of the 50,000 checks it currently mails and the Comptroller's Office estimate of a savings of \$1.80 for each payment converted from paper check to direct deposit.

*Issue 4* – Requiring SORM to consult with state agencies on business continuity plans would result in an annual cost of \$60,680 to hire an additional employee to perform the consultations and provide training.

<b>Fiscal Year</b>	<b>Cost to the State</b>	<b>Savings to the State</b>	<b>Change in FTEs From FY 2007</b>	<b>Net Effect on the General Revenue Fund</b>
2008	\$172,380	\$74,700	+3	(\$77,680)
2009	\$152,380	\$74,700	+3	(\$77,680)
2010	\$106,530	\$74,700	+2	(\$31,830)
2011	\$106,530	\$74,700	+2	(\$31,830)
2012	\$106,530	\$74,700	+2	(\$31,830)