

Committee on Business & Industry
Texas House of Representatives

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SEP 26 94

September 23, 1994

RQ-742



Opinion Committee

SJS

The Honorable Dan Morales
Attorney General
P.O. Box 12548
Austin, Texas 78711

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Dear General Morales:

On behalf of the House Committee on Business and Industry, I request your opinion in regard to the following question: Does the Texas Constitution permit the legislature to establish a guaranty association for the workers' compensation liabilities of political subdivisions in which the membership would be mandatory and as to which the funding would come through assessments imposed on the membership?

Our committee was charged by the speaker to make recommendations necessary to the protection of the insurance pools and self-insurance funds of political subdivisions. In response to that charge, a subcommittee has made the following recommendation:

Create a guaranty association specifically for public insurance pools and public self-insurers separate from the Texas Property and Casualty Insurance Guaranty Association. Membership in this association would be mandatory. The association will pay claims in the event that assets of an insolvent pool or self-insurer are insufficient to pay claims.

It is assumed that the guaranty association would be funded by the membership through assessments.

It has been suggested to us by representatives of various political subdivisions that a statute establishing such a guaranty association would violate Article III, Section 52, of the Texas Constitution as improperly authorizing a lending of credit or a grant of public money. On the other hand, the committee is aware of Article III, Sections 60 and 61, that specifically empower the legislature to "enable" counties, municipalities, and other political subdivisions to provide workers' compensation insurance and to "provide suitable laws" for that purpose.



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Your advice in this matter is critical to our proceeding in making recommendations to the full legislature. Unfortunately, the issue has arisen only of late, yet our committee report is due October 14. Accordingly, I respectfully request your expedited consideration of this question.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kim Brimer". The signature is written in black ink and is positioned above the printed name and title.

Kim Brimer
Chairman