

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:10-36

(Municipal
insurance pooling-
-allow all
contracting units
to join)

LAWS OF: 1989

CHAPTER: 253

Bill No: S3437

Sponsor(s): Dorsey

Date Introduced: April 17, 1989

Committee: Assembly: Insurance

Senate: Labor, Industry and Professions

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: December 18, 1989

Senate: June 26, 1989

Date of Approval: January 3, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

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[FIRST REPRINT]

SENATE, No. 3437

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1989

By Senator DORSEY

1 AN ACT concerning joint self-insurance of ¹[certain]¹ local units
of government ¹[and school boards,] and¹ amending P.L.1983,
3 c.372 ¹[, and amending and supplementing P.L.1983, c.108]¹.

5 BE IT ENACTED *by the Senate and General Assembly of the*
State of New Jersey:

7 1. Section 1 of P.L.1983, c.372 (C.40A:10-36) is amended to
read as follows:

9 1. The governing body of any local unit, including any
11 contracting unit as defined in section 2 of P.L.1971, c.198
(C.40A:11-2), may by resolution or ordinance, as appropriate,
13 agree to join together with any other local unit or units to
15 establish a joint insurance fund for the purpose of insuring against
liability, property damage, and workers' compensation as
17 provided in Articles 3 and 4 of chapter 10 of Title 40A of the
New Jersey Statutes and may appropriate such moneys as are
required therefor.

(cf: P.L.1983, c.372, s.1)

19 2. Section 2 of P.L.1983, c.372 (C.40A:10-37) is amended to
read as follows:

21 2. Upon the establishment of a joint insurance fund, the
officer or body of each local unit having the power to make
23 appointments for the unit shall appoint one member of the
governing body or employee of the local unit to represent that
25 local unit as insurance fund commissioner. Each local unit may
also appoint an alternate insurance fund commissioner who shall
27 be a member of the governing body or employee of the local
unit. Commissioners and alternates who are members of the
29 governing body shall hold office for two years or for the
remainder of their terms of office as members of the governing
31 body, whichever shall be less, and until their successors shall have
been duly appointed and qualified. Commissioners and alternates

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLI committee amendments adopted June 19, 1989.

1 who are employees of the local unit shall hold office at the
2 pleasure of the appointing officer or body. In the event that the
3 number of local units represented is an even number, an
4 additional [member] commissioner shall be annually selected by
5 the participating local units on a rotating basis. If the total
6 number of [commissioners] member local units exceeds seven, the
7 commissioners shall annually meet to select not more than seven
8 commissioners to serve as the executive committee of the fund.
9 The commissioners may also select not more than seven
10 commissioners to serve as alternates on the executive
11 committee. The executive committee shall exercise the full
12 power and authority of the commission. Vacancies on the
13 executive committee shall be filled by election of the entire
14 board. The commissioners shall serve without compensation,
15 except that the commissioners may vote to pay¹ themselves a fee
16 for attending commission meetings not to exceed \$150 per
17 meeting and the commissioners may vote to pay¹ commissioners
18 who serve on¹ [the] an¹ executive committee a fee for attending
19 executive committee meetings not to exceed \$150 per meeting.
20 Any vacancy in the office of insurance fund commissioner or
21 alternate, caused by any reason other than expiration of term as
22 a member of the local unit governing body, shall be filled by the
23 appointing authority in the manner generally prescribed by law.
24 The commission shall annually elect a chairman and a secretary.
25 (cf: P.L.1983, c.372, s.2)

26 3. Section 8 of P.L.1983, c.372 (C.40A:10-43) is amended to
27 read as follows:

28 8. The commissioners may, from time to time, amend the
29 bylaws and plan of risk management of the fund; provided,
30 however, that no such amendment shall take effect until
31 approved as hereinafter provided.

32 a. The commissioners shall file with the Commissioner of
33 Insurance for his approval a copy of any amendment to the bylaws
34 of the fund upon approval, by resolution, of the governing [body]
35 bodies of [each] three fourths of the member local [unit] units, or
36 any amendment to the plan of risk management, upon adoption by
37 the commissioners.

38 b. Upon receipt of the amendment, the Commissioner of
39 Insurance shall immediately notify the Commissioner of the

1 Department of Community Affairs and shall immediately provide
that commissioner with a copy of the amendment. The
3 Commissioner of the Department of Community Affairs, or by his
designation, the Director of the Division of Local Governmental
5 Services in the Department of Community Affairs, is empowered
to approve or disapprove any amendment on the basis of whether
7 or not it conforms with rules and regulations governing the
custody, investment or expenditure of public moneys. Within 25
9 working days of the receipt of the amendment, the Commissioner
of the Department of Community Affairs, or his designee, shall
11 notify the Commissioner of Insurance of his approval or
disapproval. As a condition of approval, the Commissioner of the
13 Department of Community Affairs, or his designee, may require a
modification of the amendment in order to bring its provisions
15 into conformity with rules and regulations governing the custody,
investment or expenditure of public moneys. No amendment
17 disapproved by the Commissioner of the Department of
Community Affairs, or his designee, shall take effect. If the
19 Commissioner of the Department of Community Affairs, or his
designee, fails to approve or disapprove any amendment within 25
21 workings days of receipt, the amendment shall be deemed to be
approved.

23 c. Within 30 working days of receipt, the Commissioner of
Insurance shall either approve or disapprove any amendment to
25 the bylaws or plan of risk management. If the Commissioner of
Insurance shall fail to either approve or disapprove the
27 amendment within that 30 working day period, the amendment
shall be deemed approved.

29 d. If any amendment shall be disapproved, the Commissioner
of Insurance shall set forth in writing the reasons for disapproval.
31 Upon the receipt of the notice of disapproval, the commissioners
of the affected joint insurance fund may request a public
33 hearing. The public hearing shall be convened by the
Commissioner of Insurance in a timely manner.

35 e. Within ¹[30] 90¹ days after the effective date of any
amendment to the bylaws, a member local unit which did not
37 approve the amendment may withdraw from the fund provided
that it shall remain liable for its share of any claim or expense
39 incurred by the fund during its period of membership.

(cf: P.L.1983, c.372, s.8)

1 ¹[4. Section 4 of P.L.1983, c.108 (C.18A:18B-4) is amended to
read as follows:

3 4. Bylaws of the group; trustees; powers.

5 a. The bylaws of any school board insurance group shall:

7 (1) Set forth a statement of purposes of the group;

9 (2) Set forth provisions for organization of the group, including
governance by a board of trustees;

11 (3) Provide for the delivery of a risk management [programs]
plan in conjunction with any joint self-insurance fund or funds
which the board of trustees shall establish. The risk management
plan shall include, but not be limited to:

13 (a) the perils or liabilities to be insured against;

15 (b) limits of coverage, whether self-insurance, direct insurance
purchased from a commercial carrier or reinsurance;

17 (c) the amount of risk to be retained by the fund;

19 (d) the amount of reserves to be established;

21 (e) the proposed method of assessing contributions to be paid
by each member of the fund;

23 (f) procedures governing loss adjustment and legal fees;

25 (g) coverage to be purchased from a commercial insurer, if any;

27 (h) reinsurance to be purchased, if any, and the amount of
premium therefor; and

29 (i) such other procedures and information as the commissioner
may require by rule or regulation;

31 (4) Set forth procedures to enforce the collection of any
contributions or payments in default;

33 (5) Set forth membership standards as required in section 3 of
[this act] P.L.1983, c.108 (C.18A:18B-3);

35 (6) Require that, for each joint self-insurance fund, a contract
or contracts of specific and aggregate excess insurance or
reinsurance is maintained unless otherwise recommended by the
trustees upon the advice and report of an independent actuary;

37 (7) Set forth procedures for:

39 (a) Withdrawal from the group and a fund by a member;

(b) Termination of the group or fund and disposition of assets;
and

(c) Determining the obligations, if any, of a member in the
event that the group is unable to pay indemnification obligations
and expenses payable from a fund administered by it;

1 (8) Require an annual certified audit to be prepared and filed
with the commissioner;

3 (9) Require that any joint self-insurance fund or funds be
developed and operated in accordance with accepted and sound
5 actuarial practices;

(10) Provide that any expenditure of moneys in a fund be in
7 furtherance of the purpose of the fund;

(11) Set forth other provisions as desired for operation and
9 governance of the group;

11 (12) Comply with any requirement established by the
commissioner by rule or regulation.

b. The bylaws of a group shall provide for governance of the
13 group by a board of trustees selected in accordance with the
provisions of the bylaws. The bylaws shall provide for trustee
15 powers and duties and shall include, but not be limited to, the
following powers of the board of trustees:

17 (1) To determine and establish contributions and rates, loss
reserves, surplus, limits of coverage, limits of excess or
19 reinsurance, coverage documents, dividends and other financial
and operating policies of the group or fund;

21 (2) To invest moneys held in trust under any fund in
investments which are approved for investment by regulation of
23 the State Investment Council for surplus moneys of the State;

(3) To purchase, acquire, hold, lease, sell and convey real and
25 personal property, all of which property shall be exempt from
taxation under Chapter 4 of Title 54, Taxation, of the Revised
27 Statutes;

(4) To collect and disburse all money due to or payable by the
29 group, or authorize such collection and disbursement;

(5) To enter into contracts with other persons or with public
31 bodies of this State for any professional, administrative or other
services as may be necessary to carry out the purposes of the
33 group or any fund;

(6) To purchase and serve as the master policyholders, if
35 desired, for any insurance, including excess or reinsurance;

37 (7) To prepare, or cause to be prepared, a risk management
plan for the joint insurance group;

39 (8) As the need arises, from time to time, to amend the bylaws
and plan of risk management of the fund; provided, however, that

1 no such amendment shall take effect until approved in the
2 following manner:

3 (a) The trustees shall file with the commissioner, for his
4 approval, a copy of any amendment to the bylaws of the fund,
5 upon approval by resolution of three-fourths of the member
6 school boards, or any amendment to the plan of risk management,
7 upon adoption by the trustees.

8 (b) Within 30 working days of receipt, the commissioner shall
9 either approve or disapprove any amendment to the bylaws or
10 plan of risk management. If the commissioner fails to either
11 approve or disapprove the amendment within that 30 working day
12 period, the amendment shall be deemed approved;

13 (c) If any amendment is disapproved, the commissioner shall
14 set forth, in writing, the reasons for disapproval. Upon the
15 receipt of the notice of disapproval, the trustees of the affected
16 joint insurance fund may request a public hearing. The public
17 hearing shall be convened by the commissioner in a timely
18 manner;

19 (d) Within 30 days after the effective date of any amendment
20 to the bylaws, a member school board which did not approve the
21 amendment may withdraw from the fund, provided that it shall
22 remain liable for its share of any claim or expense incurred by
23 the fund during its period of membership;

24 (9) To do all other things necessary and proper to carry out the
25 purposes for which the group is established.
26 (cf: P.L.1983, c.108, s.4)]¹

27 ¹[5. Section 7 of P.L.1983, c.108 (C.18A:18B-7) is amended to
28 read as follows:

29 7. Review of bylaws and plan of risk management;
30 investigations by the Commissioner of Insurance.

31 a. No school board insurance group, nor any joint
32 self-insurance fund of the group, may begin functioning as a
33 means of providing insurance coverage or protection for or among
34 its members until the group's bylaws and risk management plan
35 have been filed with and approved by the commissioner. If the
36 commissioner fails to approve or disapprove the bylaws or risk
37 management plan, or both, as the case may be, within 60 days
38 following filing [of the bylaws] in his office, the bylaws or risk
39 management plan, or both, as the case may be, shall be deemed

1 approved. [The commissioner may disapprove the bylaws only if
the bylaws do not conform with the provisions of this act. He] If
3 the commissioner disapproves the bylaws or risk management
plan, he shall set forth the reasons for his disapproval in writing.
5 The reasonable costs of the commissioner's review of the bylaws
and risk management plan shall be chargeable to the boards of
7 education seeking to establish the group.

b. Every school board insurance group shall file an annual
9 report, on a form prescribed by the commissioner, at a time to be
fixed by the commissioner. The report shall include a financial
11 statement of the group's assets and liabilities, the claims paid
during the preceding 12 months, current reserves, incurred losses,
13 and any other information that the commissioner may require.
The commissioner may require more frequent reports as he deems
15 necessary.

c. The commissioner shall have authority to examine the
17 books, records and affairs of any school board insurance group or
joint self-insurance fund for the purpose of determining
19 compliance with this act. The reasonable costs of any
examination or review shall be chargeable to the school board
21 insurance group.

d. [If at any time the commissioner determines that the school
23 board insurance group has experienced a deterioration in its
financial condition which adversely affects or will adversely
25 affect its ability to pay expected losses, he may: (1) require an
increase in the reserves of the insurer required by section 4 of
27 this act; or (2) require the purchase of excess insurance or
reinsurance] The commissioner may suspend or terminate the
29 authority of any school board insurance fund or direct or take any
action he may deem necessary, for good cause, to enable a fund
31 to meet its obligations, cover its expected losses, or liquidate,
rehabilitate or other wise modify its affairs. Such action may be
33 taken by the commissioner in the event of:

(1) A failure to comply with the rules and regulations
35 promulgated by the commissioner or with any of the provisions of
P.L.1983, c.108 (C.18A:18B-1 et seq.);

37 (2) A failure to comply with a lawful order of the
commissioner; or

39 (3) A deterioration of the financial condition of the fund to the

1 extent that it causes an adverse effect upon the ability of the
2 school board insurance fund to pay expected losses.

3 e. The commissioner may, in his discretion, require the
4 trustees of any fund to file copies of any agreements or contracts
5 entered into by the trustees of the fund, or any other pertinent
6 documents he may deem necessary.

7 (cf: P.L.1983, c.108, s.7)]¹

8 ¹[6. (New section) Within 180 days after the effective date of
9 this act, the Commissioner of Insurance shall promulgate rules
10 and regulations to effectuate the purposes of this act. The rules
11 and regulations shall include, but not be limited to, the
12 establishment, operation, modification and dissolution of school
13 board insurance funds established pursuant to the provisions of
14 this act.]¹

15 ¹[7.] 4.¹ This act shall take effect immediately ¹[, except that
16 any existing approved school board insurance group shall have 90
17 days from the effective date to submit its bylaws and risk
18 management plan to the Commissioner of Insurance for his
19 determination, pursuant to section 7 of P.L.1983, c.108
20 (C.18A:18B-7), that the bylaws and plan of risk management
21 comply with the provisions of P.L.1983, c.108 (C.18A:18B-1 et
22 seq.) as amended by this act]¹.

23

25

INSURANCE
Municipalities

27

28 Permits all contracting units to join municipal insurance pooling
29 arrangements.

1 commissioner; or

3 (3) A deterioration of the financial condition of the fund to the
3 extent that it causes an adverse effect upon the ability of the
3 school board insurance fund to pay expected losses.

5 e. The commissioner may, in his discretion, require the
5 trustees of any fund to file copies of any agreements or contracts
7 entered into by the trustees of the fund, or any other pertinent
7 documents he may deem necessary.

9 (cf: P.L.1983, c.108, s.7)

11 6. (New section) Within 180 days after the effective date of
11 this act, the Commissioner of Insurance shall promulgate rules
13 and regulations to effectuate the purposes of this act. The rules
13 and regulations shall include, but not be limited to, the
15 establishment, operation, modification and dissolution of school
15 board insurance funds established pursuant to the provisions of
15 this act.

17 7. This act shall take effect immediately, except that any
17 existing approved school board insurance group shall have 90 days
19 from the effective date to submit its bylaws and risk
19 management plan to the Commissioner of Insurance for his
21 determination, pursuant to section 7 of P.L.1983, c.108
21 (C.18A:18B-7), that the bylaws and plan of risk management
23 comply with the provisions of P.L.1983, c.108 (C.18A:18B-1 et
23 seq.) as amended by this act.

25

27

STATEMENT

29 This bill permits all contracting units, such as authorities and
29 independent governmental agencies, to join municipal insurance
31 pooling arrangements. The bill allows for the appointment of
31 alternate insurance fund commissioners, provides compensation
33 for commissioners who serve on the executive committee of a
33 pool, and permits amendments to the bylaws of a pool upon the
35 approval of three-fourths of the pool members. This bill also
35 expands the authority of the Commissioner of Insurance in the
37 regulation of school board insurance pools by granting him the
37 same power he currently has in regulating municipal pools.

ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 3437

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STATE OF NEW JERSEY

DATED: NOVEMBER 27, 1989

The Assembly Insurance Committee reports favorably Senate Bill No. 3437(1R).

This bill makes changes to the law governing joint self insurance pools of local units of government. The bill permits any contracting unit as defined in the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to join or participate in the establishment of a self-insurance pool. Under present law, only local units (i.e., counties and municipalities) may participate in these pools. The bill makes several other revisions to the law governing local unit self-insurance funds. It permits local units to appoint alternate insurance fund commissioners and permits the appointment of alternate members to the executive committee of a joint insurance fund with more than seven member local units. In addition, the bill provides that commissioners who serve on the commission or an executive committee can be paid a fee, not to exceed \$150 per meeting, for attending the meetings of the commission or executive committee on which they serve. Present law provides that commissioners are to serve without compensation. The bill also permits a fund to file amendments to the fund bylaws with the Commissioner of Insurance for his approval upon approval, by resolution, of three-fourths of the member local units. Present law requires adoption of an amendment by all member units prior to filing for approval with the commissioner. Furthermore, the bill permits the withdrawal from the fund of any member unit which did not approve an amendment to the bylaws within 90 days of the adoption of that amendment by the commissioner. Any local unit withdrawing under this provision will remain liable for its share of any claim or expense incurred by the fund during its period of membership.

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SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 3437

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 1989

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Senate, No. 3437.

This bill, as amended by the committee, makes changes to the law governing joint self insurance pools of local units of government. The bill permits any contracting unit as defined in the "Local Public Contracts Law," P.L. 1971, c. 198 (C. 40A:11-1 et seq.) to join a self-insurance pool. Under present law, only local units (ie., counties and municipalities) may participate in these pools. The bill makes several other revisions to the law governing local unit self-insurance funds. It permits local units to appoint alternate insurance fund commissioners and permits the appointment of alternate members to the executive committee of a joint insurance fund with more than seven member local units. In addition, the bill provides that commissioners who serve on the commission or an executive committee can be paid a fee, not to exceed \$150 per meeting, for attending the meetings of the commission or executive committee that they serve on. Present law provides that commissioners are to serve without compensation. The bill would permit a fund to file amendments to the fund bylaws for approval, by resolution, of the Commissioner of Insurance upon approval by three-fourths of the member local units. Present law requires adoption of an amendment by all member units prior to filing for approval with the commissioner. The bill permits the withdrawal from the fund of any member unit which did not approve an amendment to the bylaws within 90 days of the adoption of that amendment by the commissioner. Any local unit withdrawing under this provision will remain liable for its share of any claim or expense incurred by the fund during its period of membership.

Those provisions in the bill concerning the law governing school board joint self-insurance funds have been deleted by the committee.