

18A: 18B-2

LEGISLATIVE HISTORY CHECKLIST
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(Boards of Education--authorize joint
life & health self-insurance programs)

NJSA: 13A:18B-2

LAWS OF: 1995 **CHAPTER:** 74

BILL NO: A2168

SPONSOR(S): Garrett

DATE INTRODUCED: September 26, 1994

COMMITTEE: **ASSEMBLY:** Insurance

SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage
Assembly Committee Substitute (1R) denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** March 2, 1995

SENATE: February 6, 1995

DATE OF APPROVAL: April 10, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FISCAL NOTE: No

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FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2168

STATE OF NEW JERSEY

ADOPTED JANUARY 19, 1995

Sponsored by Assemblymen GARRETT and BATEMEN

1 AN ACT concerning joint self-insurance by school boards,
2 amending P.L.1979, c.391 and amending and supplementing
3 P.L.1983, c.108.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. Section 2 of P.L.1983, c.108 (C.18A:18B-2) is amended to
8 read as follows:

9 2. Insurance authorized. Any board of education is
10 authorized to insure, contract or provide for any insurable
11 interest of the district or board in the manner authorized by
12 section 3 of [this act] P.L.1983, c.108 ¹[(C.18A-18B-3)]
13 (C.18A:18B-3)¹, for the following:

14 a. Any loss or damage to its property, real or personal, motor
15 vehicles, equipment or apparatus;

16 b. Any loss or damage from liability resulting from the use or
17 operation of motor vehicles, equipment or apparatus owned or
18 controlled by it;

19 c. Any loss or damage from liability for its own acts or
20 omissions and for acts or omissions of its officers, employees or
21 servants arising out of and in the course of the performance of
22 their duties, including, but not limited to, any liability established
23 by the "New Jersey Tort Claims Act," N.J.S. 59:1-1 et seq., or by
24 any federal or other law;

25 d. Loss or damage from liability as established by Chapter 15
26 of Title 34 of the Revised Statutes, Labor and [Workmen's]
27 Workers' Compensation (R.S. 34:15-1 et seq.);

28 e. Expenses of defending any claim against the board, district,
29 officer, employee or servant arising out of and in the course of
30 the performance of their duties, whether or not liability exists on
31 the claim.

32 f. Benefits pursuant to contributory or non-contributory group
33 health insurance or group term life insurance, or both, for
34 employees or their dependents, or both, through self insurance,
35 the purchase of commercial insurance or reinsurance, or any
36 combination thereof. The maximum risk to be retained for group
37 term life insurance by a joint insurance fund on a self insured
38 basis shall not exceed a face amount of \$5,000 per covered
39 employee or dependent or such greater amount as approved by
40 the Commissioners of Insurance and Education. ¹Notwithstanding
41 any other provision of law to the contrary, the board or joint
42 insurance fund shall be subject to the surcharge levied

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 Assembly floor amendments adopted January 23, 1995.

1 pursuant to section 3 of P.L.1993, c.8 (C.52:14-17.38c) for claims
2 paid within the retained amount. For any claims paid in excess of
3 the retained amount, the surcharge shall be paid by the entity
4 insuring the excess amount.¹

5 As used in this subsection:

6 (1) "life insurance" means life insurance as defined in
7 N.J.S.17B:17-3.

8 (2) "health insurance" means health insurance as defined in
9 N.J.S.17B:17-4 or benefits provided by hospital service
10 corporations, medical service corporations or health service
11 corporations authorized to do business in this State; and

12 (3) "dependents" means dependents as defined pursuant to
13 section 1 of P.L.1979, c.391 (C.18A:16-12);

14 (cf: P.L.1983, c.108, s.2)

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

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

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

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

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

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

26 (a) the perils of liabilities to be insured against;

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

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

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

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

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

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

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

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

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

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

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

47 (7) Set forth procedures for:

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

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

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

54 (8) Require an annual certified audit to be prepared and filed

- 1 with the commissioner;
- 2 (9) Require that any joint self-insurance fund or funds be
3 developed and operated in accordance with accepted and sound
4 actuarial practices;
- 5 (10) Provide that any expenditure of moneys in a fund be in
6 furtherance of the purpose of the fund;
- 7 (11) Set forth other provisions as desired for operation and
8 governance of the group;
- 9 (12) Provide for expulsion of a member; and
- 10 (13) Comply with any requirement established by the
11 commissioner by rule or regulation.
- 12 b. The bylaws of a group shall provide for governance of the
13 group by a board of trustees selected in accordance with the
14 provisions of the bylaws. The bylaws shall provide for trustee
15 powers and duties and shall include, but not be limited to, the
16 following powers of the board of trustees:
- 17 (1) To determine and establish contributions and rates, loss
18 reserves, surplus, limits of coverage, limits of excess or
19 reinsurance, coverage documents, dividends and other financial
20 and operating policies of the group or fund;
- 21 (2) To invest moneys held in trust under any fund in
22 investments which are approved for investment by regulation of
23 the State Investment Council for surplus moneys of the State or,
24 at the discretion of the board, to transfer moneys held in trust
25 under any fund to the Director of the Division of Investment in
26 the Department of the Treasury for investment on behalf of the
27 board in accordance with the standards governing the investment
28 of other funds which are managed under the rules and regulations
29 of the State Investment Council. However, any moneys
30 transferred to the director for investment may not thereafter be
31 withdrawn except upon withdrawal of a member from the group
32 or a fund or termination of the group or a fund or in specific
33 amounts in payment of specific claims, administrative expenses
34 or member dividends upon affidavit of the director or other chief
35 executive officer of the group;
- 36 (3) To purchase, acquire, hold, lease, sell and convey real and
37 personal property, all of which property shall be exempt from
38 taxation under chapter 4 of Title 54, Taxation, of the Revised
39 Statutes;
- 40 (4) To collect and disburse all money due to or payable by the
41 group, or authorize such collection and disbursement;
- 42 (5) To enter into contracts with other persons or with public
43 bodies of this State for any professional, administrative or other
44 services as may be necessary to carry out the purposes of the
45 group or any fund;
- 46 (6) To purchase and serve as the master policyholders if
47 desired, for any insurance, including excess or reinsurance;
- 48 (7) To prepare, or cause to be prepared, a risk management
49 program for the joint insurance group;
- 50 (8) As the need arises, from time to time, to amend the bylaws
51 or risk management program of the fund; except that no such
52 amendment shall take effect until approved in the following
53 manner:
- 54 (a) The trustees shall file with the commissioner, for his

1 approval: a copy of any amendment to the bylaws of the fund,
2 upon approval by resolution of three-fourths of the member
3 school boards or in such other manner as established by the fund
4 and approved by the commissioner; or any amendment to the risk
5 management program, upon adoption by the trustees.

6 (b) Within 60 days of receipt, the commissioner shall either
7 approve or disapprove any amendment to the bylaws or risk
8 management program. If the commissioner fails to either
9 approve or disapprove the amendment within that 60 day period,
10 the amendment shall be deemed approved;

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

17 (d) Within 90 days after the effective date of any amendment
18 to the bylaws, a member school board which did not approve the
19 amendment may withdraw from the fund, except that it shall
20 remain liable for its share of any claim or expense incurred by
21 the fund during its period of membership;

22 (9) To do all other things necessary and proper to carry out the
23 purposes for which the group is established.

24 (cf: P.L.1992, c.53, s.1)

25 3. Section 7 of P.L.1983, c.108 (C.18A:18B-7) is amended to
26 read as follows:

27 7. Review of bylaws; investigations by the Commissioner of
28 Insurance.

29 a. No school board insurance group, nor any joint
30 self-insurance fund of the group, may begin functioning as a
31 means of providing insurance coverage or protection for or among
32 its members until the group's bylaws and risk management
33 program have been filed with and approved by the commissioner.
34 If the commissioner fails to approve or disapprove the bylaws or
35 risk management program, or both, as the case may be, within 60
36 days following filing [of the bylaws] in his office, the bylaws or
37 risk management program, or both, as the case may be, shall be
38 deemed approved. [The commissioner may disapprove the bylaws
39 only if the bylaws do not conform with the provisions of this act.
40 He] If the commissioner disapproves the bylaws or risk
41 management program, he shall set forth the reasons for his
42 disapproval in writing. The reasonable costs of the
43 commissioner's review of the bylaws and risk management
44 program shall be chargeable to the boards of education seeking to
45 establish the group.

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

54 c. The commissioner shall have authority to examine the

1 books, records and affairs of any school board insurance group or
2 joint self-insurance fund for the purpose of determining
3 compliance with this act. The reasonable costs of any
4 examination or review shall be chargeable to the school board
5 insurance group.

6 d. [If at any time the commissioner determines that the school
7 board insurance group has experienced a deterioration in its
8 financial condition which adversely affects or will adversely
9 affect its ability to pay expected losses, he may: (1) require an
10 increase in the reserves of the insurer required by section 4 of
11 this act; or (2) require the purchase of excess insurance or
12 reinsurance.] The commissioner may suspend or terminate the
13 authority of any school board insurance fund or direct or take any
14 action he may deem necessary for good cause, to enable a fund to
15 meet its obligations, cover its expected losses, or liquidate,
16 rehabilitate or otherwise modify its affairs. The commissioner
17 may take such action in the event of:

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

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

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

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

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

31 4. Section 2 of P.L.1979, c.391 (C.18A:16-13) is amended to
32 read as follows:

33 2. Any local board of education may directly or indirectly
34 through a trust fund or otherwise enter into contracts of group
35 life, accidental death and dismemberment, hospitalization,
36 medical, surgical, major medical expense, minimum premium
37 insurance policy or health and accident insurance with any
38 insurance company or companies authorized to do business in this
39 State, or may contract with a nonprofit hospital service [or],
40 medical service or health service corporation with respect to the
41 benefits which they are authorized to provide respectively. Such
42 contract or contracts shall provide any one or more of such
43 coverages for the employees of the local board of education and
44 may include their dependents. A local board of education may
45 enter into a contract or contracts to provide drug prescription
46 and other health care benefits, or enter into a contract or
47 contracts to provide drug prescription and other health care
48 benefits as may be required to implement a duly executed
49 collective negotiations agreement, or as may be required to
50 implement a determination by a local board of education to
51 provide such benefit or benefits to employees not included in
52 collective negotiations units. Nothing herein contained shall be
53 deemed to authorize coverage of dependents of an employee
54 under a group life insurance policy or to allow the issuance of a

1 group life insurance policy under which the entire premium is to
2 be derived from funds contributed by the insured employee.

3 For purposes of this section, "minimum premium insurance
4 policy" means a group insurance policy issued by an insurer
5 licensed to do business in this State under which the policyholder
6 agrees to directly fund specified claims of insureds covered under
7 the policy, in lieu of payment of a portion of the premium.

8 (cf: P.L.1979, c.391, s.2)

9 5. (New section) Within 180 days after the effective date of
10 this 1995 amendatory and supplementary act, the Commissioner
11 of Insurance shall promulgate rules and regulations to effectuate
12 its purposes pursuant to the "Administrative Procedure Act,"
13 P.L.1968, c.410 (C.52:14-1 et seq.). The rules and regulations
14 shall include, the not be limited to, the establishment, operation,
15 modification and dissolution of school board insurance funds
16 established pursuant to the provisions of this 1995 amendatory
17 and supplementary act.

18 6. This act shall take effect immediately, except that any
19 existing approved school board insurance group shall, within 180
20 days of the effective date of any rule or regulation promulgated
21 pursuant to section 5 of this act, submit its bylaws and risk
22 management program to the Commissioner of Insurance pursuant
23 to section 7 of P.L.1983, c.108 (C.18A:18B-7).

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28 _____
29 Permits school boards to obtain group health and life insurance
through joint insurance funds.

ASSEMBLY, No. 2168
STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 26, 1994

By Assemblyman GARRETT

1 AN ACT permitting boards of education to provide certain group
2 insurance through joint insurance funds, amending P.L.1983,
3 c.108 and supplementing P.L.1983, c.372 (C.40A:10-36 et seq.).
4

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

7 1. Section 2 of P.L.1983, c.108 (C.18A:18B-2) is amended to
8 read as follows:

9 2. Insurance authorized. Any board of education is authorized
10 to insure, contract or provide for any insurable interests of the
11 district or board in the manner authorized by section 3 of this
12 act, for the following:

13 a. Any loss or damage to its property, real or personal, motor
14 vehicles, equipment or apparatus;

15 b. Any loss or damage from liability resulting from the use or
16 operation of motor vehicles, equipment or apparatus owned or
17 controlled by it;

18 c. Any loss or damage from liability for its own acts or
19 omissions and for acts or omissions of its officers, employees or
20 servants arising out of and in the course of the performance of
21 their duties, including, but not limited to, any liability established
22 by the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., or by
23 any federal or other law;

24 d. Loss or damage from liability as established by Chapter 15
25 of Title 34 of the Revised Statutes, Labor and [Workmen's]
26 Workers' Compensation (R.S.34:15-1 et seq.);

27 e. Expenses of defending any claim against the board, district,
28 officer, employee or servant arising out of and in the course of
29 the performance of their duties, whether or not liability exists on
30 the claim;

31 f. Benefits pursuant to contributory or non-contributory group
32 health insurance or group term life insurance, or both, for
33 employees or their dependents, or both.

34 As used in this subsection:

35 (1) "life insurance" means life insurance as defined in
36 N.J.S.17B:17-3;

37 (2) "health insurance" means health insurance as defined in
38 N.J.S.17B:17-4 or service benefits as provided by health service
39 corporations, hospital service corporations or medical service
40 corporations authorized to do business in this State; and

41 (3) "dependents" means dependents as defined in section 1 of
42 P.L.1979, c.391 (C.18A:16-12).

43 (cf: P.L.1983, c.108, s.2)

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.

1 2. (New section) For the purposes of P.L.1983, c.372
2 (C.40A:10-36 et seq.), "local unit" shall be deemed to include a
3 school district.

4 3. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill grants boards of education the same authority to
10 self-insure for group health or life insurance for their employees
11 and dependents on a contributory or non-contributory basis
12 through joint self-insurance funds that currently is granted to
13 municipalities and other local units. The bill amends the law
14 which authorizes the establishment of joint insurance funds by
15 school boards to permit self-insurance for health and life
16 insurance benefits, and also supplements the law authorizing the
17 establishment of joint insurance funds by municipalities and other
18 local units to include school boards in the definition of "local
19 unit" under that law, thus providing school boards with an
20 additional option in this regard.

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25 _____
26 Permits school boards to obtain group health and life insurance
through joint insurance funds.

ASSEMBLY INSURANCE COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2168
STATE OF NEW JERSEY

DATED: JANUARY 19, 1995

The Assembly Insurance Committee reports favorably the Assembly Committee Substitute for Assembly, No. 2168.

This bill amends P.L.1983, c.108 (C.18A:18B-1 et seq.), which authorizes the establishment of joint self-insurance funds by boards of education to insure against liability, property damage and workers' compensation, to permit the establishment of joint insurance funds to provide group health insurance or group term life insurance, or both, to school board employees and their dependents.

The bill grants the same oversight authority to the Commissioner of Insurance over joint insurance funds established by boards of education as is currently provided to the commissioner under current law with respect to joint insurance funds established by municipalities.

The bill requires boards of education to establish a risk management program in conjunction with any joint insurance fund established by a school board insurance group and to file the risk management program and the bylaws established by such an insurance group with the commissioner for approval before the fund is permitted to function. If the commissioner does not either approve or disapprove the bylaws or risk management program within a 60 day period, the bylaws or risk management program would be deemed approved.

Additionally, the bill requires the commissioner to approve any amendment to the insurance group bylaws or risk management program. If the commissioner fails either to approve or disapprove such an amendment within a 60 day period, the amendment would be deemed approved. If the commissioner disapproves such an amendment, the commissioner is required to set forth the reasons for disapproval in writing. Upon receipt of the notice of disapproval, the trustee of the joint insurance fund can request a public hearing.

The bill provides that any member school board that does not approve an amendment to the bylaws may withdraw from the fund, but remains liable for its share of any claim or expense incurred by the fund during its period of membership.

Under the bill, the commissioner may terminate the authority of any school board insurance fund or take action to enable a fund to meet its obligations, cover its expected losses or liquidate, rehabilitate or otherwise modify its affairs if: the insurance group fails to comply with the rules and regulations promulgated by the commissioner; fails to comply with a lawful order of the commissioner; or if the financial condition of the fund deteriorates to the extent that it can no longer pay expected losses.

The bill also amends section 2 of P.L.1979, c.391 (C.18A:16-13) to permit boards of education to contract directly or indirectly with insurers through intermediaries, such as multiple employer trusts, for employees' and dependents' life, hospitalization, health and accident insurance benefits. The bill also provides that boards of education may enter into minimum premium insurance policies, which are group policies issued by an insurer licensed to do business in this State under which the policyholder agrees to directly fund specified claims of insureds covered under the policy, in lieu of payment of a portion of the premium.