

18A:18B-1 to 18A:18D-7

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:18B-1 to 18A:18B-7; 18A:18A-72 (Education, Board of -insurance  
- regulates)

LAWS OF: 1983

CHAPTER: 108

Bill No: A1372

Sponsor(s): Doyle and others

Date Introduced: May 13, 1982

Committee: Assembly: Education

Senate: Labor, Industry and Professions

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

Date of Passage: Assembly: June 21, 1982

Senate: Jan. 20, 1983

Date of Approval: March 15, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: Yes //

Following were printed:

Reports: /// No

Hearings: /// No

See newspaper clipping (attached)

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**ASSEMBLY, No. 1372**

**STATE OF NEW JERSEY**

INTRODUCED MAY 13, 1982

By Assemblymen DOYLE, PELLY, MARSELLA, PALAIA,  
 HAINES, Assemblywoman OGDEN, Assemblymen BOCCHINI,  
 McENROE, VAN WAGNER and VILLANE

AN ACT concerning board of education insurance, amending N. J. S.  
 18A:18A-42 and supplementing Title 18A of the New Jersey  
 Statutes.

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

1 1. (New section). Definitions. For the purposes of this act:

2 a. "Fund" means a joint self-insurance fund established by a  
 3 school board insurance group pursuant to this act. The joint self-  
 4 insurance fund is a fund of public moneys from contributions  
 5 made by members of a school board insurance group for the purpose  
 6 of securing insurance protection, risk management programs, or  
 7 related services as authorized by this act;

8 b. "School board insurance group" or "group" means an asso-  
 9 ciation formed by two or more boards of education for the develop-  
 10 ment, administration, and provision of risk management programs,  
 11 joint self-insurance fund or funds, and related services;

12 c. "Risk management program" means a plan, and activities  
 13 carried out under the plan, by a school board insurance group to  
 14 reduce risk of loss with respect to a particular line of insurance  
 15 protection or coverage provided by a fund pursuant to this act,  
 16 including safety engineering and other loss prevention and control  
 17 techniques. Risk management program also includes the admin-  
 18 istration of one or more funds, including the processing and  
 19 defense of claims brought against or on behalf of members of  
 20 the group.

**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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted December 13, 1982.

21 d. "Trustee" or "board of trustees" means the board of trustees  
 22 established pursuant to the bylaws of the school board insurance  
 23 group to govern or manage the risk management programs, joint  
 24 self-insurance fund or funds and related services of the group;

25 e. "Contributions" means the moneys paid by a member of a  
 26 school board insurance group in amounts as may be set by the  
 27 board of trustees or other officers as provided in the group's  
 28 bylaws for the purpose of participating in a joint self-insurance  
 29 fund or funds, securing risk management programs or related  
 30 services;

31 f. "Certified audit" means an audit upon which an auditor  
 32 expresses his professional opinion that the accompanying state-  
 33 ments present fairly the financial position of a fund in conformity  
 34 with generally accepted accounting principles consistently applied,  
 35 and accordingly including tests of the accounting records and other  
 36 auditing procedures as considered necessary in the circumstances;

37 g. "Commissioner" means the Commissioner of Insurance.

1 2. (New section). Insurance authorized. Any board of education  
 2 is authorized to insure, contract or provide for any insurable  
 3 interest of the district or board in the manner authorized by  
 4 section 3 of this act, for the following:

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

7 b. Any loss or damage from liability resulting from the use or  
 8 operations of motor vehicles, equipment or apparatus owned or  
 9 controlled by it;

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

16 d. Loss or damage from liability as established by Chapter 15 of  
 17 Title 34 of the Revised Statutes, Labor and Workmen's Compensa-  
 18 tion (R. S. 34:15-1 et seq.);

19 e. Expenses of defending any claim against the board, district,  
 20 officer, employee or servant arising out of and in the course of the  
 21 performance of their duties, whether or not liability exists on the  
 22 claim.

1 3. (New section). School board insurance group.

2 a. Any two or more boards of education may form and become  
 3 members of a school board insurance group. A board of education  
 4 may take this action by resolution of the board. Through member-

5 ship in a school board insurance group, a board of education may  
 6 participate in any joint self-insurance fund or funds, risk manage-  
 7 ment programs or related services offered or provided by the  
 8 group. The group shall have the power to establish a fund or  
 9 funds for coverages authorized in section 2 of this act and to  
 10 jointly purchase insurance or coverages under a master policy or  
 11 contract of insurance for participating members. The group shall  
 12 have the power to take other actions necessary to developing,  
 13 administering, and providing risk management programs, joint  
 14 self-insurance funds, joint insurance purchases, and related  
 15 services.

16 b. The bylaws of the school board insurance group shall provide  
 17 that any board of education may join the group provided it agrees  
 18 to comply with the standards for membership, including risk man-  
 19 agement programs, which shall be established by the group, and  
 20 may be a member as long as it complies with the standards for  
 21 membership.

22 c. A school board insurance group may sue or be sued and shall  
 23 appoint a natural person residing in this State or a corporation  
 24 authorized to do business in this State as its agent for service of  
 25 process. The group shall notify the commissioner of the  
 26 appointment.

27 d. A school board insurance group is not an insurance company  
 28 or an insurer under the laws of this State and the development,  
 29 administration or provision by a group of joint self-insurance fund  
 30 or funds, risk management programs and related services does not  
 31 constitute the transaction of insurance nor doing an insurance  
 32 business. A group shall not be subject to the provisions of Title 17,  
 33 Subtitle 3, Insurance of the Revised Statutes.

1 4. (New section) Bylaws of the group; trustee; powers.

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

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

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

6 (3) Provide for the delivery of risk management programs in  
 7 conjunction with any joint self-insurance fund or funds which the  
 8 board of trustees shall establish;

9 (4) Set forth procedures to enforce the collection of any con-  
 10 tributions or payments in default;

11 (5) Set forth membership standards as required in section 3 of  
 12 this act;

13 (6) Require that, for each joint self-insurance fund, a contract  
 14 or contracts of specific and aggregate excess insurance or rein-

15 surance is maintained unless otherwise recommended by the trus-  
16 tees upon the advice and report of an independent actuary;

17 (7) Set forth procedures for:

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

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

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

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

26 (9) Require that any joint self-insurance fund or funds be de-  
27 veloped and operated in accordance with accepted and sound  
28 actuarial practices;

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

31 (11) Set forth other provisions as desired for operation and  
32 governance of the group.

33 b. The bylaws of a group shall provide for governance of the  
34 group by a board of trustees selected in accordance with the pro-  
35 visions of the bylaws. The bylaws shall provide for trustee powers  
36 and duties and shall include, but not be limited to, the following  
37 powers of the board of trustees:

38 (1) To determine and establish contributions and rates, loss  
39 reserves, surplus, limits of coverage, limits of excess or reinsur-  
40 ance, coverage documents, dividends and other financial and op-  
41 erating policies of the group or fund;

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

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

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

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

55 (6) To purchase and serve as the master policyholders, if de-  
56 sired, for any insurance, including excess or reinsurance;

57 (7) To do all other things necessary and proper to carry out  
58 the purposes for which the group is established.

1 5. (New section) Trustees; number and qualifications. The board  
2 of trustees of any school board insurance group shall have no fewer  
3 than three nor more than 15 trustees. Each trustee shall be a  
4 natural person 18 years of age or older who is a resident of this  
5 State. A majority of the trustees of any group shall be members  
6 or employees of member boards of education, provided that any  
7 trustee who ceases to be a member or employee of a board of edu-  
8 cation may be allowed to serve for not more than 90 days following  
9 cessation without violating this provision.

1 6. (New section) Trustees; compensation. No trustee shall be  
2 paid a salary, except that the written trust instrument may provide  
3 for reimbursement for actual expenses incurred on behalf of the  
4 trust fund and for compensation not to exceed \$200.00 for any day  
5 or portion of a day spent at a meeting of the trustees. Except as  
6 otherwise provided in this act, no trustee shall enter into any con-  
7 tract with the group or receive any moneys or other compensation  
8 or thing of value whatsoever from the group for services performed  
9 for or on behalf of the group.

1 7. (New section) Review of bylaws; investigations by the Com-  
2 missioner of Insurance.

3 a. No school board insurance group, nor any joint self-insurance  
4 fund of the group, may begin functioning as a means of providing  
5 insurance coverage or protection for or among its members until  
6 the group's bylaws have been filed with and approved by the com-  
7 missioner. If the commissioner fails to approve or disapprove the  
8 bylaws within 60 days following filing of the bylaws in his office,  
9 the bylaws shall be deemed approved. The commissioner may  
10 disapprove the bylaws only if the bylaws do not conform with the  
11 provisions of this act. He shall set forth the reasons for his dis-  
12 approval in writing. The reasonable costs of the commissioner's  
13 review of the bylaws shall be chargeable to the boards of education  
14 seeking to establish the group.

15 *\*b. Every school board insurance group shall file an annual*  
16 *report, on a form prescribed by the commissioner, at a time to be*  
17 *fixed by the commissioner. The report shall include a financial*  
18 *statement of the group's assets and liabilities, the claims paid dur-*  
19 *ing the preceding 12 months, current reserves, incurred losses, and*  
20 *any other information that the commissioner may require.\**

21 **\*[b.]\* \*c.\*** The commissioner shall have authority to examine  
22 the books, records and affairs of any school board insurance group  
23 or joint self-insurance fund for the purpose of determining com-  
24 pliance with this act. The reasonable costs of any examination or  
25 review shall be chargeable to the school board insurance group.

26     *\*d. If at any time the commissioner determines that the school*  
 27 *board insurance group has experienced a deterioration in its*  
 28 *financial condition which adversely affects or will adversely affect*  
 29 *its ability to pay expected losses, he may: (1) require an increase in*  
 30 *the reserves of the insurer required by section 4 of this act; or (2)*  
 31 *require the purchase of excess insurance or reinsurance.\**

1     8. N. J. S. 18A:18A-42 is amended to read as follows:

2     18A:18A-42. Duration of certain contracts. Any board of edu-  
 3 cation may enter into a contract exceeding the fiscal year for the

4     a. Supplying of:

5     (1) Fuel for heating purposes, for any term not exceeding in  
 6 the aggregate, 3 years; or

7     (2) Fuel or oil for use of automobiles, autobuses, motor vehicles  
 8 or equipment for any term not exceeding in the aggregate, 3 years;

9     or

10    b. The plowing and removal of snow and ice for any term not  
 11 exceeding in the aggregate, 3 years; or

12    c. The collection and disposal of garbage and refuse, for any  
 13 term not exceeding in the aggregate, 3 years; or

14    d. Data processing service, for any term of not more than 5  
 15 years; or

16    e. Insurance, *including the purchase of insurance coverages,*  
 17 *insurance consultant or administrative services, and including par-*  
 18 *ticipation in a joint self-insurance fund, risk management program*  
 19 *or related services provided by a school board insurance group, for*  
 20 any term of not more than 3 years; or

21    f. Leasing or servicing of automobiles, motor vehicles, electronic  
 22 communications equipment, machinery and equipment of every  
 23 nature and kind, for any term not exceeding the aggregate 5 years;  
 24 provided, however, such contracts shall be entered into only sub-  
 25 ject to and in accordance with rules and regulations promulgated  
 26 by the State Board of Education;

27    g. The supplying of any product or the rendering of any service  
 28 by a telephone company which is subject to the jurisdiction of the  
 29 Board of Public [Utility Commissioners] *Utilities* for a term not  
 30 exceeding 5 years. All multiyear leases and contracts entered into  
 31 pursuant to this section 18A:18A-42 except contracts for the leas-  
 32 ing or servicing of equipment supplied by a telephone company  
 33 which is subject to the jurisdiction of the Board of Public [Utility  
 34 Commissioners] *Utilities and except contracts for insurance cover-*  
 35 *ages, insurance consultant or administrative services, participation*  
 36 *or membership in a joint self-insurance fund, risk management*  
 37 *programs or related services of a school board insurance group,*

38 shall contain a clause making them subject to the availability and  
39 appropriation annually of sufficient funds as may be required to  
40 meet the extended obligation, or contain an annual cancellation  
41 clause.

1 9. This act shall take effect immediately, and boards of educa-  
2 tion are authorized to plan, make commitments and take prepara-  
3 tory action for establishing school board insurance groups and  
4 joint self-insurance funds, provided that no fund shall become fully  
5 operative prior to July 1, 1982.

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## STATEMENT

This bill would provide express authority for local boards of education to join with other boards of education in school board insurance trusts for the purpose of forming self-insurance pools. If group insurance is available at a favorable premium, a trust could purchase such coverage for its members as an alternative to using the self-insurance pool approach. Finally, this bill would amend the Public School Contracts Law to permit boards to enter into contracts of up to 3 years' duration for the purchase of insurance, insurance consultant services and risk management services. Such contracts would neither be required to contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation nor an annual cancellation clause.

The concept of pooling is one whereby public entities can join together to provide protection from risks on a group basis—in a pool. By joining a pool, they can collectively attain benefits not possible individually. Instead of paying premiums directly to an insurer, the member districts pool their premiums (with substantial discounts) into a common trust fund to be used for the benefit of all the member districts.

Typically, the insurance provided through a pooling arrangement is on three basic levels. The first level represents the amount of risks which the individual school district would be willing to absorb. These first few dollars of losses are similar to what we frequently refer to as "deductible." The distinction here, however, is that the district would provide for the appropriation of the amount of money for the first layer of coverage in its own budget. This is frequently referred to as "self-insured retention." The second layer which represents a much wider range of dollars would be the pooled contributions. These contributions are used to cover all other losses of the membership, up to a predetermined level. The third and final layer is commercial insurance to protect against catastrophic losses over and above the pool's exposure. This third layer is generally referred to as "excess coverage" or "reinsurance." The excess insurance company essentially agrees to assume the upper levels of the risk. "Specific" excess insurance is purchased to cover any single claim that exceeds a predetermined amount. "Aggregate" excess insurance is purchased to cover the contingency of total claims against the pool exceeding another (and considerably larger) predetermined amount. In addition to excess insurance, the pool also provides claims administration and loss control services.

A1372 (1982)

Pooling is an outgrowth of self-insurance. In workers' compensation, a number of New Jersey's largest school districts have in recent years individually changed to self-insurance programs. In doing so, they have substantially reduced their insurance costs, while continuing to provide complete protection to their employees. But the self-insurance option is, for a variety of reasons, available only to comparatively large school districts. As outlined above, this bill would allow the many smaller districts throughout New Jersey to avail themselves of a self-insurance program through a pooling arrangement with other districts.

There are more than 19 states which by statute permit their local governments to establish and participate in joint self-insurance pools. The legislation in some of these states is of recent vintage. Others, such as Wisconsin for example, have offered property insurance coverage to local governments through the State Property Insurance Fund for more than 70 years. The savings to taxpayers in all of these states has ranged from 15 to 40% over previous costs in the private sector. It is important to note that this bill does not mandate pools as a replacement for conventional coverage. Rather it allows for an option previously unavailable to local school districts.

The New Jersey School Boards Association, an entity expressly created by the State Legislature, is seeking to provide the option of a Statewide insurance pool in one or more lines of insurance for the benefit of New Jersey's school districts.

The section-by-section summary of the bill is as follows:

Section 1. The definitions in section 1 clarify the essential terminology used throughout the legislation. Subsection a. contains the definition for the joint self-insurance fund established by the school board insurance group. Subsection b. defines the agency created by the school board members to run the pool as the "school board insurance group." Subsection c. defines the "risk management program." Note that in section 4, subsection a. 3, the risk management programs are to be mentioned in the bylaws and are to be required for each fund the agency creates. The remaining definitions are self-explanatory.

Section 2. Sets forth the types of insurance that boards would be authorized to pool under this bill. Health insurance is not included in the coverages authorized because there is already in effect a State Health Benefits Program by which school districts can presently pool their risks with other local public employers.

Section 3. Provides for the School Board Insurance Group. It clarifies that any two or more boards anywhere in the State may

form an insurance pool or insurance fund. The concerns expressed about boards which may not be able to secure coverage have been addressed in subsection b. which insures that any board of education may join the group provided it agrees to comply with the standards for membership, including risk management programs, which may be established by the group. Subsection d. provides that the school board insurance pool shall not be subject to the provisions of insurance statutes (Title 17 of the Revised Statutes), which regulate private, nonprofit enterprises.

Section 4. Outlines the requirements to be contained in the bylaws. Among the requirements which the bylaws must contain are the following (including some additional provisions and safeguards which have not existed in statute until this time): Purchase of excess or reinsurance where appropriate; withdrawal and distribution of assets; sound actuarial practices; and development of reserves. The powers and duties of the trustees must also be outlined in the bylaws.

Sections 5 and 6. Concern the board of trustees, setting a minimum and maximum number, outlining basic qualifications, precluding them from receiving a salary but permitting some compensation.

Section 7. Provides for the review of the bylaws by the Commissioner of Insurance within 60 days. The costs for this review will be chargeable to the boards of education seeking to establish the group. The commissioner shall also have the power to review all the records of the school board insurance group for the purpose of determining compliance with this act.

Section 8. Gives the school board the authority to enter into a contract for 3 years for the purchase of insurance coverages, insurance consultant or administrative services, including participation in a joint insurance fund, risk management programs, or related services.

Section 9. Makes the act effective immediately provided that no funds shall become fully operative prior to July 1, 1982.

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ASSEMBLY EDUCATION COMMITTEE  
STATEMENT TO  
**ASSEMBLY, No. 1372**  
**STATE OF NEW JERSEY**

DATED: JUNE 14, 1982

**PROVISIONS:**

Assembly Bill No. 1372 authorizes local boards of education to join with other boards of education in school board insurance trusts for the purpose of forming self-insurance pools, and would amend The Public School Contracts Law to permit boards to enter into contracts of up to 3 years duration for the purchase of insurance, insurance consultant services and risk management services.

**BACKGROUND:**

Assembly Bill No. 1372 permits local school districts to self-insure through pooling the resources of several districts.

The self-insurance option, for practical reasons, has been available only to comparatively large school districts with extensive professional and nonprofessional labor forces. Unless a district is able to pay the cost of insurance premiums, an administrative fee and anticipated claim payments at an amount considerably lower than the conventional premium already being paid by the district, there is no self-insurance alternative available to that school district alone. This bill would allow the many smaller districts through New Jersey to avail themselves of a self-insurance program in a pooling arrangement with other districts.

The concept of pooling is that it enables school districts to join together to provide protection from risks on a group basis—in a pool. By joining a pool, school districts can collectively attain benefits not possible individually. Typically, the insurance provided through a pooling arrangement is on three basic levels. The first level represents the amount of risks which the individual school district would be willing to absorb. These first few dollars of losses are similar to what we frequently refer to as “deductible.” To provide for this layer of coverage the district would appropriate an amount of money in its annual budget.

This is frequently referred to as “self-insured retention.” The second layer which represents a much wider range of dollars would be the pooled contributions. Losses subject to payment from the pool in this

portion of the coverage might typically be in the range of \$1,000.00 to \$100,000.00 or more. The third and final layer is commercial insurance to protect against catastrophic losses. These losses might typically range from \$1 million to \$10 million. This third layer is generally referred to as "excess coverage" or "reinsurance."

There are more than 19 states which by statute permit their local governments to establish and participate in self-insurance pools. The legislation in some of these states is of recent vintage. Others, such as Wisconsin, have offered property insurance coverage to local governments through the State Property Insurance Fund for more than 70 years.

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SENATE EDUCATION COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1372**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 13, 1982

The Senate Education Committee favorably reports this bill and endorses the Assembly committee statement which reads as follows:

“PROVISIONS:

Assembly Bill No. 1372 authorizes local boards of education to join with other boards of education in school board insurance trusts for the purpose of forming self-insurance pools, and would amend The Public School Contracts Law to permit boards to enter into contracts of up to three years duration for the purchase of insurance, insurance consultant services and risk management services.

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SENATE COMMITTEE AMENDMENTS:

The amendments are intended to clarify the role of the commissioner of insurance in regulating the self-insurance pool.

They specify the content of the annual report, and allow the commissioner to require an increase of reserves or require the purchase of reinsurance if he determines that the insurance group has experienced a deterioration of its financial condition.

The Department of Insurance supports this bill as amended.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: CARL GOLDEN

TUESDAY, MARCH 15, 1983

Governor Thomas H. Kean today signed legislation to permit local boards of education to join with other boards for the formation of self-insurance pools.

The legislation, A-1372, was sponsored by Assemblyman John Doyle, D-Ocean.

The legislation permits smaller school districts in particular to join in a pool for the purpose of self insuring, thus enabling districts to attain benefits not possible on an individual basis.

It is expected that, through self insurance, local districts will realize substantial savings in premium costs as well.

# # # # #