

34:15-77 et seq

LEGISLATIVE HISTORY CHECKLIST

NJSA: 34:15-77 et seq.

(Workers Compensation - hospital employees - allow group est. of self-insured trust fund)

LAWS OF: 1983

CHAPTER: 376

Bill No: S1209

Sponsor(s): Bornheimer and others

Date Introduced: March 29, 1982

Committee: Assembly: Banking and Insurance

Senate: Labor, Industry and Professions

Amended during passage: YES

Amendments during passage denoted by asterisks.

Date of Passage:

Assembly: September 6, 1983

Senate: June 24, 1982

Date of Approval: November 10, 1983

Following statements are attached if available:

Sponsor statement:

YES (Below)

Committee statement:

Assembly

YES

Senate

YES

Fiscal Note:

NO

Veto Message:

NO

Message on Signing:

yes

Following were printed:

Reports:

NO

Hearings:

NO

Sponsors' Statement:

The purpose of this bill is to allow the formation of a self-insured trust fund enabling hospitals to group self-insure for workers compensation liability. Specifically set forth in this bill are application procedures, conditions governing adoption of a plan and the extent of a participant's liability.

R D V

11-10-83

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1209**STATE OF NEW JERSEY**

INTRODUCED MARCH 29, 1982

By Senators BORNHEIMER, GREGORIO, CARDINALE
and O'CONNOR

Referred to Committee on Labor, Industry and Professions

AN ACT concerning group self-insurance by certain employers against liability for workers' compensation payments, amending R. S. 34:15-77 and supplementing chapter 15 of Title 34 of the Revised Statutes.

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

1 1. R. S. 34:15-77 is amended to read as follows:

2 34:15-77. Any employer desiring to carry his own liability in-
3 surance may make application to the Commissioner of **[Banking**
4 **and]** Insurance showing his financial ability to pay compensation.
5 The commissioner, if satisfied of the applicant's financial ability
6 and the permanence of his business, shall by written order exempt
7 the applicant from insuring the whole or any part of his compen-
8 sation liability.

9 The commissioner may from time to time require any employer
10 exempted as herein provided to furnish further statements of
11 financial ability and if at any time it appears to him that any such
12 employer is no longer financially able to carry the risk of com-
13 pensation liability the commissioner shall revoke his order granting
14 exemption, whereupon the employer shall immediately insure his
15 liability under this chapter in a mutual association or other in-
16 surance company authorized to engage in ****[workmen's]****
17 ****workers'***** compensation in this State.

18 Whenever the commissioner is not satisfied with the financial
19 ability and the permanence of the business of an employer exempted
20 as herein provided, or of a new applicant for exemption, he may
21 consider, and shall have the authority to accept, as evidence of

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 June 14, 1982.**

****—Assembly committee amendments adopted June 16, 1983.**

22 such ability to pay compensation, (a) a guaranty by the parent
 23 corporation of such applicant that said parent corporation will
 24 discharge the applicant's liability under this chapter; (b) a sepa-
 25 rate account or reserve fund, or any deposit thereupon, maintained
 26 by an applicant to discharge his liability under this chapter; (c) a
 27 surety bond executed by an association or corporation licensed to
 28 do business in this State, provided the surety on any such surety
 29 bond undertakes to discharge the applicant's liability under this
 30 chapter; or (d) a contract of an employer with an insurance carrier
 31 covering liability for a portion of the compensation required under
 32 article 2, chapter 15, Title 34 of the Revised Statutes.

33 Any employer **or group of employers** exempted as herein pro-
 34 vided may for ***[his]*** **its** own protection insure ***[his]*** **its**
 35 liability for the payment of any stated loss in excess of
 36 ***[\$5,000.00]*** **\$100,000.00** by reason of any single accident or by
 37 reason of occupational diseases scheduled in this chapter; provided,
 38 that any such contract of insurance shall operate only between the
 39 employer **or group of employers** and ***[his]*** **its** insurance
 39A carrier and shall not be subject to any of the provisions of this
 39B chapter.

40 An application pertaining only to a change of name of a pres-
 41 ently exempt employer, without any change in the financial struc-
 42 ture of said employer, shall not be considered as a new application
 43 for exemption under this act.

44 *Pursuant to rules and regulations established by the Commis-*
 45 *sioner of Insurance, ****[in consultation with the Commissioner of***
 46 *Health,]** 10 or more employers licensed by the State as hospitals*
 47 *under the "Health Care Facilities Planning Act," P. L. 1971, c. 136*
 48 *(C. 26:2H-1 et seq.) may make application to the commissioner*
 49 *for ****[his]**** permission to enter into agreements to pool their*
 50 *liabilities under this chapter for the purpose of qualifying as self-*
 51 *insurers. An employer member of the approved group shall be*
 52 *classified as a self-insurer.*

1 2. (New section) With respect to any group of employers licensed
 2 by the State as hospitals who adopt a plan for self-insurance for
 3 the payment of compensation to their employees, at least the
 4 following conditions shall apply:

5 a. Under such group plan, the group shall assume the liability
 6 of all the employers within the group ***under the terms of a trust*
 6A *agreement approved by the commissioner,*** and pay all compen-
 7 sation for which the employers are liable under Title 34 of the
 8 Revised Statutes;

9 b. When making application to the commissioner for permission
 10 to establish a group plan for self-insurance, the group shall present

11 satisfactory proof to the commissioner of its financial ability to
 12 pay such compensation for the employers who are members of the
 13 group, including a statement of the group's revenues, their source,
 14 and assurance for their continuance;

15 c. ****[The]**** ***If required by the commissioner, the*** group
 16 shall deposit with the commissioner such types and amounts of
 17 securities or surety bonds as the commissioner deems necessary to
 18 provide assurance that such benefits as are payable by the group
 19 will continue to be paid and that the group will meet its statutory
 19A obligations;

20 d. The commissioner may require the group to file any and all
 21 agreements, contracts, and such other pertinent documents as he
 22 may deem necessary relating to the organization of the employers
 23 in the group;

24 e. Each group self-insurer, in its application for self-insurance
 25 shall set forth the names and addresses of each of its officers,
 26 directors, trustees, and general manager. No officer, director,
 27 trustee, or employee of the group self-insurer may represent or
 28 participate directly or indirectly on behalf of an injured worker
 29 or his dependents in any workers' compensation proceeding.

1 3. (New section) Any employer licensed by the State as a hospital
 2 who participates in group self-insurance shall not be relieved from
 3 the liability for compensation prescribed by Title 34 of the Revised
 4 Statutes except by the payment thereof by the group self-insurer
 5 or by himself. The insolvency or bankruptcy of a participating
 6 employer shall not relieve the group self-insurer from the payment
 7 of compensation for injuries or death sustained by an employee
 8 during the time the employer was a participant in such group self-
 9 insurance.

1 4. (New section) Such group self-insurer shall promptly notify
 2 the commissioner, on a form to be prescribed by the commissioner,
 3 of the addition of any participating employer or employers. Notice
 4 of termination of any participating employer in a group self-insur-
 5 ance plan shall be given to the commissioner at least 10 days before
 6 the effective date of such termination of participation. Such notice
 7 shall also be sent by registered mail to all other members of the
 8 group self-insurance plan.

1 5. (New section) If such a group self-insurance plan is termi-
 2 nated, the securities or surety bond on deposit with the commis-
 3 sioner shall remain in the custody of the commissioner for a period
 4 of at least 26 months. At the expiration of such time or such further
 5 period as the commissioner may deem proper and necessary, he
 6 may accept in lieu thereof, and for the additional purpose of secur-
 7 ing such further and future contingent liability as may arise from

8 prior injuries to workers and be incurred by reason of any change
 9 in the condition of such workers which warrant awards for addi-
 10 tional compensation, a policy of insurance furnished by the group
 11 self-insurer, its successor, assigns, or others carrying on or liquidat-
 12 ing such self-insurance group.

1 6. (New section) Every such group self-insurer shall, on an
 2 annual basis, or as often as the commissioner deems it necessary,
 3 furnish to the commissioner:

4 a. ****[A payroll report for each participating employer of the**
 5 **group for the three fiscal years immediately preceding;**

6 b. A report of compensation losses incurred, payments, plus
 7 reserves, by each participating employer of the group for the 3
 8 fiscal years immediately preceding;

9 c. A statement of the group's loss expense and experience in
 10 accordance with the uniform statistical plan promulgated by the
 11 Commissioner of Insurance for worker's compensation coverage;

12 d. A sworn itemized statement of the group's assets and liabil-
 13 ities; *****A financial statement of the group's assets and liabili-**
 14 **ties, the claims paid during the preceding 12 months, current**
 15 **reserves, incurred losses, and any other information that the**
 16 **commissioner may require; and****

17 ****[e.]** ***b.** A description of the ****[safety organization]****
 18 ****service organizations**** maintained by the employer or group for
 19 the prevention of injuries ****and claims administration services****.**

1 7. (New section) The commissioner may conduct such annual
 2 examinations of each such group self-insurer as he deems necessary
 3 and proper. ****[The expense of examination of a group self-**
 4 **insurer shall be borne by the group examined.]****

1 8. (New section) The commissioner shall have the authority to
 2 deny the application of any group of self-insurers to pay such
 3 benefits, or to revoke his consent for any group continuing to pay
 4 for good cause shown, including, but not limited to:

5 a. Failure to comply with regulations adopted by the commis-
 6 sioner or with any provisions of this act;

7 b. Failure to comply with a lawful order of the commissioner;

8 c. Deterioration of financial condition to such an extent that such
 9 deterioration would have an adverse affect on the ability of the
 10 self-insurance group to pay expected losses.

1 9. (New section) The Commissioner of Insurance shall promul-
 2 gate such rules and regulations**, *including appropriate fee*
 3 *schedules,*** as he deems necessary to effectuate the provisions of
 4 this act.

1 10. This act shall take effect immediately.

10 tional compensation, a policy of insurance furnished by the group
 11 self-insurer, its successor, assigns, or others carrying on or liquidat-
 12 ing such self-insurance group.

1 6. (New section) Every such group self-insurer shall, on an
 2 annual basis, or as often as the commissioner deems it necessary,
 3 furnish to the commissioner:

4 a. A payroll report for each participating employer of the group
 5 for the 3 fiscal years immediately preceding;

6 b. A report of compensation losses incurred, payments, plus
 7 reserves, by each participating employer of the group for the 3
 8 fiscal years immediately preceding;

9 c. A statement of the group's loss expense and experience in
 10 accordance with the uniform statistical plan promulgated by the
 11 Commissioner of Insurance for worker's compensation coverage;

12 d. A sworn itemized statement of the group's assets and liabil-
 13 ities;

14 e. A description of the safety organization maintained by the
 15 employer or group for the prevention of injuries.

1 7. (New section) The commissioner may conduct such annual
 2 examinations of each such group self-insurer as he deems necessary
 3 and proper. The expense of examination of a group self-insurer
 4 shall be borne by the group examined.

1 8. (New section) The commissioner shall have the authority to
 2 deny the application of any group of self-insurers to pay such
 3 benefits, or to revoke his consent for any group continuing to pay
 4 for good cause shown, including, but not limited to:

5 a. Failure to comply with regulations adopted by the commis-
 6 sioner or with any provisions of this act;

7 b. Failure to comply with a lawful order of the commissioner;

8 c. Deterioration of financial condition to such an extent that such
 9 deterioration would have an adverse affect on the ability of the
 10 self-insurance group to pay expected losses.

1 9. (New section) The Commissioner of Insurance shall promul-
 2 gate such rules and regulations as he deems necessary to effectuate
 3 the provisions of this act.

1 10. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to allow the formation of a self-insured trust fund enabling hospitals to group self-insure for workers' compensation liability. Specifically set forth in this bill are application procedures, conditions governing adoption of a plan and the extent of a participant's liability.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

SENATE, No. 1209

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 1983

Senate Bill No. 1209 (OCR) authorizes 10 or more licensed hospitals to enter into agreement to establish a group plan of employer self-insurance against the workers' compensation liabilities of each member hospital. The bill also increases from \$5,000.00 to \$100,000.00, the liability for any single accident or occupational disease which a self-insuring employer or hospital group may not insure with a commercial insurer.

Senate Bill No. 1209 (OCR):

(1) Requires a group of 10 or more hospitals to make application to the Commissioner of Insurance to establish a group plan of self-insurance (subsection 2b);

(2) Requires the applicant group to provide the commissioner with: proof of its financial ability to meet its obligations; assurance of the plan's continuance; a deposit of securities or surety bonds of such types and in such amounts as may be deemed necessary by the commissioner; and a list of the officers, directors, trustees and general managers of the group plan (subsections 2b., c. and e.);

(3) Authorizes the commissioner to require the filing of any agreements, contracts or documents relating to the organization of the group plan (subsection 2d);

(4) Holds member hospitals liable for any worker's compensation not paid by the group, and, obversely, holds the group plan liable, in the case of an insolvent member, for any liability sustained by the group during the member's participation in the plan (section 3);

(5) Requires the group to notify the commissioner of any change in membership (section 4);

(6) Establishes procedures, in the case of a plan insolvency, for the holding by the commissioner of the securities or surety bonds on deposit, and for insuring further contingent liabilities for additional compensation (section 5);

(7) Requires a self-insured group to provide annually to the commissioner, or as often as the commissioner may deem necessary, payroll reports, reports of compensation losses and loss expenses, statements of financial conditions, and a description of the group or employer safety organization for preventing accidents (section 6);

(8) Authorizes the commissioner to conduct annual examinations of group plans at the group's expense (section 7);

(9) Empowers the commissioner to deny a group application or revoke previous consent, upon failure of a group to comply with the provisions of law or departmental regulations or orders issued pursuant thereto, or upon a finding of "deterioration" of the group's financial condition (section 8).

The Commissioner of Insurance may adopt appropriate rules and regulations to effectuate the provisions of the bill.

The Assembly committee amendments are technical in nature and were developed in cooperation with the State Department of Insurance.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1209

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 14, 1982

This bill permits 10 or more employers licensed by the State as hospitals to self-insure, as a group, against their liabilities with regard to workers' compensation.

Under the bill, the group must:

- a. Assume the liability of all the employers within the group and pay all compensation for which the employers are liable;
- b. When making application to the commissioner, present proof of its financial ability to pay such compensation for the employers; and
- c. Deposit with the commissioner such types and amounts of securities or surety bonds as the commissioner deems necessary to provide assurance that the group will meet its statutory obligations.

The commissioner may make annual examinations of a group self-insurer, at the insurer's expense.

Insolvency or bankruptcy of a participating employer of a group would not relieve the group self-insurer from payments for injuries or death sustained by employees during the time the employer was in the group.

If a group self-insurance plan is terminated, the commissioner must retain the securities or surety bond on deposit for at least 26 months. At the end of such period, the commissioner may, for a period he deems necessary, retain the securities or surety bond or accept a policy of insurance to assure that the terminated group's liabilities or obligations are met.

The commissioner may deny an application for or permit of a group self insurer if the self-insurer fails to comply with the provisions of this bill or regulations promulgated pursuant thereto or to obey a lawful order of the commissioner or if the group self-insurer's financial condition deteriorates so as to affect its ability to pay expected losses.

The Committee amended the bill to provide that an employer self-insurer or group self-insurer can only insure his liability for the payment of any stated loss in excess of \$100,000.00, instead of \$5,000.00,

by reason of any single accident or by reason of occupational disease. In short, the amendment increases the amount of the workers's compensation liability that the employer self-insurer or group self-insurer must insure and decreases the amount that a self-insurer will purchase in the excess market.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: PAUL WOLCOTT

THURSDAY, NOVEMBER 10, 1983

Governor Thomas H. Kean has signed the following bills:

S-1209, sponsored by State Senator James W. Bornheimer, D-Middlesex, which allows the formation of a self-insured trust enabling hospitals, as a group, to self-insure for worker's compensation liability.

S-1470, sponsored by State Senator Francis J. McManimon, D-Mercer, which appropriates \$4,560,000 from the State Recreation and Conservation Land Acquisition and Development Fund (Green Acres) to the Department of Environmental Protection for the acquisition of land for recreation and conservation purposes. The bill specifies that \$1.5 million be used for the capitalization of the proposed Pinelands Development Credit Bank, (legislation creating the bank is currently pending in the Legislature as A-1259). Green Acres projects funded by the appropriation are: Pinelands acquisitions in Burlington County; Appalachian Trail North and South in Sussex and Passaic Counties; Turkey Swamp Wildlife Management Area and Assunpink Wildlife Management Area, both in Monmouth County; Black River Wildlife Management Area and Berkshire Valley Wildlife Management Area, both in Morris County; various marine access sites in Monmouth and Atlantic Counties and miscellaneous purchases to round out State acquisition programs.

S-1695, sponsored by State Senator Carmen Orechio, D-Essex, which creates the Christopher Columbus Quincentennial Observation Commission to plan Statewide celebrations of the 500th anniversary of the discovery of America by Columbus.