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SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 1998 and 2067

STATE OF NEW JERSEY
214th LEGISLATURE

ADOPTED AUGUST 23, 2010

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex and Union)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Assemblywoman PAMELA R. LAMPITT

District 6 (Camden)

Assemblyman JOHN DIMAIO

District 23 (Warren and Hunterdon)

Co-Sponsored by:

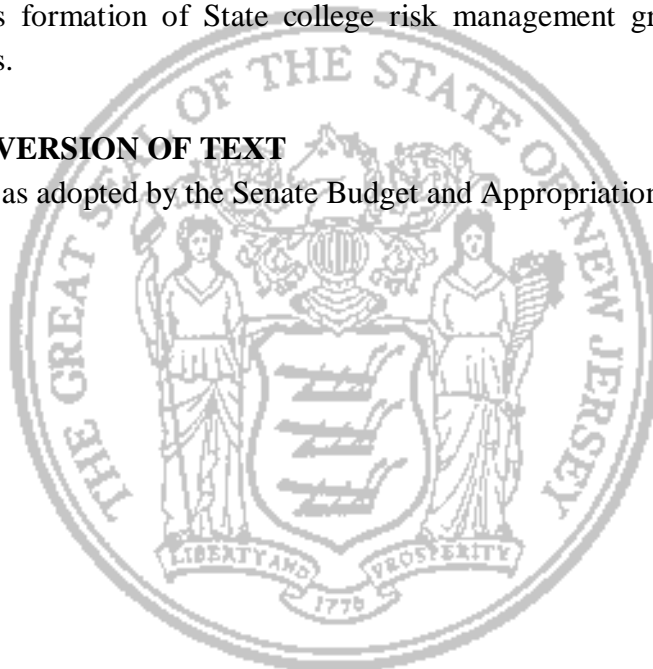
Senator Beck and Assemblyman Schaer

SYNOPSIS

Authorizes formation of State college risk management groups and joint liability funds.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.



(Sponsorship Updated As Of: 10/26/2010)

1 AN ACT concerning the formation of State college risk management
2 groups and joint liability funds, supplementing chapter 64 of
3 Title 18A of the New Jersey Statutes and amending P.L.2007,
4 c.56.

5

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

8

9 1. (New section) As used in this act:

10 "Board of trustees" or "trustees" means the board of trustees
11 established pursuant to the bylaws of the State college risk
12 management group to govern or manage the risk management
13 programs, joint liability funds, and related services of the group.

14 "Certified audit" means an audit upon which an auditor expresses
15 a professional opinion that the accompanying statements present
16 fairly the financial position of a joint liability fund in conformity
17 with generally accepted accounting principles consistently applied,
18 and includes tests of the accounting records and other auditing
19 procedures as considered necessary in the circumstances.

20 "Commissioner" means the Commissioner of Banking and
21 Insurance.

22 "Contributions" means the moneys paid by a member of a State
23 college risk management group in amounts as may be set by the
24 board of trustees or other officers as provided in the group's bylaws
25 for the purposes of participating in a joint liability fund or funds, or
26 securing risk management programs or related services.

27 "Joint liability fund" or "fund" means a joint liability fund
28 established by a State college risk management group pursuant to
29 this act. The joint liability fund is a fund of public moneys from
30 contributions made by members of a State college risk management
31 group for the purpose of securing insurance, risk management
32 programs, or related services as authorized by this act.

33 "State college" means any of the State colleges or universities
34 established pursuant to chapter 64 of Title 18A of the New Jersey
35 Statutes.

36 "State college risk management group" or "group" means an
37 association formed by two or more State colleges for the
38 development, administration, and provision of risk management
39 programs, joint liability funds for the payment of liabilities incurred
40 by the State colleges and not funded by the State of New Jersey
41 pursuant to the provisions of the "New Jersey Tort Claims Act,"
42 N.J.S.59:1-1 et seq., and related services.

43 "Risk management program" means a plan, and activities carried
44 out under the plan, by a State college risk management group to
45 reduce risk of loss with respect to liabilities incurred by the State

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 colleges, including safety engineering and other loss prevention and
2 control techniques. A risk management program also includes the
3 administration of one or more joint liability funds, including the
4 processing and defense of claims brought against or on behalf of
5 members of the group.

6

7 2. (New section) A State college is authorized to insure,
8 contract or provide for any insurable interest of the State college in
9 the manner authorized by section 3 of this act, for the following:

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

12 b. Loss or damage from liability as established by the "New
13 Jersey Contractual Liability Act," N.J.S.59:13-1 et seq.;

14 c. Loss or damage from liability as established by the workers'
15 compensation law, R.S.34:15-1 et seq.; and

16 d. Expenses of defending any claim against the State college,
17 trustee, officer, employee or servant arising out of and in the course
18 of the performance of their duties, whether or not liability exists on
19 the claim, not eligible for defense and indemnification by the State
20 of New Jersey in accordance with the provisions of the "New Jersey
21 Tort Claims Act," N.J.S.59:1-1 et seq.

22

23 3. (New section) a. Any two or more State colleges may form
24 and become members of a State college risk management group. A
25 State college may take this action by resolution of the board of
26 trustees of the State college. Through membership in a State
27 college risk management group, a State college may participate in
28 any joint liability funds, risk management programs or related
29 services offered or provided by the group. The group shall have the
30 power to establish funds for coverages authorized in section 2 of
31 this act and to jointly purchase insurance or coverages under a
32 master policy or contract of insurance for participating members.
33 The group shall have the power to take other actions necessary to
34 developing, administering, and providing risk management
35 programs, joint liability funds, joint insurance purchases, and
36 related services.

37 b. The bylaws of the State college risk management group shall
38 provide that any State college may join the group, provided it
39 agrees to comply with the standards for membership, including risk
40 management programs, which shall be established by the group, and
41 may be a member as long as it complies with the standards for
42 membership.

43 c. A State college risk management group may sue or be sued
44 for the liabilities and coverages authorized by section 2 of this act
45 and shall appoint a natural person residing in this State or a
46 corporation authorized to do business in this State as its agent for

1 service of process. The group shall notify the commissioner and the
2 Office of the Attorney General of the appointment.

3 d. A State college risk management group shall not be
4 considered or deemed to be an insurance company or an insurer
5 under the laws of this State and the development, administration or
6 provision by a group of joint liability funds, risk management
7 programs, and related services shall not constitute the transaction of
8 insurance or the conducting of an insurance business. A group shall
9 not be subject to the provisions of Title 17, Subtitle 3 of the
10 Revised Statutes.

11

12 4. (New section) a. The bylaws of a State college risk
13 management group shall:

14 (1) set forth a statement of purposes of the group;

15 (2) set forth provisions for organization of the group, including
16 governance by a board of trustees;

17 (3) provide for the delivery of risk management programs in
18 conjunction with any joint liability fund which the board of trustees
19 shall establish;

20 (4) set forth procedures to enforce the collection of any
21 contributions or payments in default;

22 (5) set forth membership standards as required in section 3 of
23 this act;

24 (6) require that, for each joint liability fund, a contract or
25 contracts of specific and aggregate excess insurance or reinsurance
26 is maintained, if available, unless otherwise recommended by the
27 trustees upon the advice and report of an independent actuary;

28 (7) set forth procedures for:

29 (a) withdrawal from the group and a fund by a member;

30 (b) termination of the group or fund and disposition of assets;
31 and

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

35 (8) require an annual certified audit to be prepared and filed
36 with the commissioner;

37 (9) require that any joint liability fund be developed and
38 operated in accordance with accepted and sound actuarial practices;

39 (10) provide that any expenditure of moneys in a fund be in
40 furtherance of the purpose of the fund; and

41 (11) set forth other provisions as desired for operation and
42 governance of the group.

43 b. The bylaws of a State college risk management group shall
44 provide for governance of the group by a board of trustees selected
45 in accordance with the provisions of the bylaws. The bylaws shall
46 provide for trustee powers and duties and shall include, but not be
47 limited to, the following powers of the board of trustees:

- 1 (1) to determine and establish contributions and rates, loss
2 reserves, surplus, limits of coverage, limits of excess or reinsurance,
3 coverage documents, dividends and other financial and operating
4 policies of the group or fund;
- 5 (2) to invest moneys held in trust under a fund in investments
6 which are approved for investment by regulation of the State
7 Investment Council for surplus moneys of the State;
- 8 (3) to purchase, acquire, hold, lease, sell and convey real and
9 personal property, all of which property shall be exempt from
10 taxation under chapter 4 of Title 54 of the Revised Statutes;
- 11 (4) to collect and disburse all money due to or payable by the
12 group, or authorize such collection and disbursement;
- 13 (5) to enter into contracts with other persons or with public
14 bodies of this State for any professional, administrative or other
15 services as may be necessary to carry out the purposes of the group
16 or any fund;
- 17 (6) to purchase and serve as the master policyholders, if desired,
18 for any insurance, including excess or reinsurance; and
- 19 (7) to do all other things necessary and proper to carry out the
20 purposes for which the group is established.

21

22 5. (New section) a. The board of trustees of a State college risk
23 management group shall have not less than three or more than 15
24 trustees. A trustee shall be a natural person 18 years of age or older
25 who is a resident of this State. A majority of the trustees of a group
26 shall be members or employees of member State colleges, provided
27 that a trustee who ceases to be a member or employee of a State
28 college may be allowed to serve for not more than 90 days
29 following cessation without violating this provision.

30 b. A trustee shall not be paid a salary, except that the written
31 trust instrument may provide for reimbursement for actual expenses
32 incurred on behalf of the fund and for compensation not to exceed
33 \$200 for any day or portion of a day spent at a meeting of the
34 trustees. Except as otherwise provided in this act, a trustee shall not
35 enter into any contract with the group or receive any moneys or
36 other compensation or thing of value whatsoever from the group for
37 services performed for or on behalf of the group.

38

39 6. (New section) a. A State college risk management group, or
40 any joint liability fund of the group, shall not begin functioning as a
41 means of providing coverage or protection for or among its
42 members until the group's bylaws have been filed with and
43 approved by the commissioner. The commissioner may disapprove
44 the bylaws only if the bylaws do not conform with the provisions of
45 this act. The commissioner shall set forth the reasons for
46 disapproval in writing. If the commissioner fails to approve or
47 disapprove the bylaws within 60 days following filing of the bylaws

1 with the commissioner, the bylaws shall be deemed approved. The
2 reasonable costs of the commissioner's review of the bylaws shall
3 be chargeable to the State colleges seeking to establish the group.

4 b. A State college risk management group shall file an annual
5 report, on a form to be prescribed by the commissioner, and shall
6 include a financial statement of the group's assets and liabilities, the
7 claims paid during the preceding 12 months, current reserves,
8 incurred losses, and any other information that the commissioner
9 may require.

10 c. The commissioner shall have authority to examine the
11 books, records and affairs of any State college risk management
12 group or any of its liability funds at a time to be fixed by the
13 commissioner. The reasonable costs of any examination or review
14 shall be chargeable to the State college risk management group.

15 d. If at any time the commissioner determines that the State
16 college risk management group has experienced a deterioration in
17 its financial condition which adversely affects or will adversely
18 affect its ability to pay expected losses, the commissioner may:

19 (1) require an increase in the reserves of the group as required
20 by section 4 of this act; or

21 (2) require the purchase of excess insurance or reinsurance.

22
23 7. (New section) Funds for premiums required by the contract
24 between the governing body of the State college and the board of
25 trustees of the State college risk management group shall be
26 appropriated and paid as set forth in the contract in the same
27 manner as appropriations are made for other expenses of the State
28 college.

29
30 8. (New section) The Commissioner of Banking and Insurance
31 shall promulgate rules and regulations necessary to effectuate the
32 purposes of this act pursuant to the "Administrative Procedure Act,"
33 P.L.1968, c.410 (C.52:14B-1 et seq.). The rules and regulations
34 shall include, but not be limited to, the establishment, operation,
35 modification and dissolution of a State college joint liability fund
36 established pursuant to the provisions of this act.

37
38 9. Section 3 of P.L.2007, c.56 (C.52:18A-221) is amended to
39 read as follows.

40 3. The mission of the division shall be to implement a well-
41 coordinated strategy to identify and respond to the needs of the
42 various departments and agencies of State Government in this
43 regard. Specifically, the division shall:

44 a. Procure insurance coverage, if appropriate, for any or all of
45 the various departments and agencies of State Government, other
46 than State colleges that procure coverage through risk management
47 programs, joint liability funds, or joint insurance programs pursuant

- 1 to P.L. , c. (C.) (pending before the Legislature as this bill)
2 and independent authorities and instrumentalities of the State,
3 including, as otherwise required by law or as appropriate, coverage
4 through self-insurance and use of third party administrators;
- 5 b. Assist the various departments and agencies of State
6 Government in developing sound plans of risk management,
7 including developing programs to protect physical assets, and
8 developing and implementing safety programs to mitigate both the
9 frequency and severity of accidental loss and by reviewing these
10 plans and programs from time to time;
- 11 c. Administer the processing of all claims for the various self-
12 administered and self-funded insurance programs of State agencies
13 and departments, with litigation support from the Department of
14 Law and Public Safety , except those claims processed by risk
15 management programs, joint liability funds, or joint insurance
16 programs established by State colleges pursuant to
17 P.L. , c. (C.) (pending before the Legislature as this bill);
- 18 d. Compile and distribute, on a monthly basis, accident
19 frequency reports to the Governor, the commissioner of each
20 principal department of State Government, and the Legislature.
21 These reports shall track each department's current accident rate
22 compared to historical trends and shall include summaries of any
23 protocols in place to reduce risk; and
- 24 e. Continue all of the previous functions and responsibilities of
25 the Bureau of Risk Management, in addition to those listed in this
26 section, and develop new strategies and programs, as appropriate.
27 (cf: P.L.2007, c.56, s.3)
- 28
- 29 10. This act shall take effect immediately.

SENATE, No. 1998

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MAY 27, 2010

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex and Union)

SYNOPSIS

Authorizes formation of State college risk management groups and their participation in joint liability funds.

CURRENT VERSION OF TEXT

As introduced.



S1998 RUIZ

2

1 **AN ACT** concerning the creation of a joint fund to pay for liabilities
2 incurred by the State colleges and supplementing chapter 64 of
3 Title 18A of the New Jersey Statutes.

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

7
8 1. As used in this act:

9 "Board of trustees" or "trustees" means the board of trustees
10 established pursuant to the bylaws of the State college risk
11 management group to govern or manage the risk management
12 programs, joint liability funds, and related services of the group.

13 "Certified audit" means an audit upon which an auditor expresses
14 a professional opinion that the accompanying statements present
15 fairly the financial position of a joint liability fund in conformity
16 with generally accepted accounting principles consistently applied,
17 and including tests of the accounting records and other auditing
18 procedures as considered necessary in the circumstances.

19 "Contributions" means the moneys paid by a member of a State
20 college risk management group in amounts as may be set by the
21 board of trustees or other officers as provided in the group's bylaws
22 for the purposes of participating in a joint liability fund or funds, or
23 securing risk management programs or related services.

24 "Joint liability fund" or "fund" means a joint liability fund
25 established by a State college risk management group pursuant to
26 this act. The joint liability fund is a fund of public moneys from
27 contributions made by members of a State college risk management
28 group for the purpose of securing insurance, risk management
29 programs, or related services as authorized by this act.

30 "State college" means any of the State colleges or universities
31 established pursuant to chapter 64 of Title 18A of the New Jersey
32 Statutes.

33 "State college risk management group" or "group" means an
34 association formed by two or more State colleges for the
35 development, administration, and provision of risk management
36 programs, joint liability funds for the payment of liabilities incurred
37 by the State colleges and not funded by the State of New Jersey
38 pursuant to the provisions of the "New Jersey Tort Claims Act,"
39 N.J.S. 59:1-1 et seq., and related services.

40 "Risk management program" means a plan, and activities carried
41 out under the plan, by a State college risk management group to
42 reduce risk of loss with respect to liabilities incurred by the State
43 colleges, including safety engineering and other loss prevention and
44 control techniques. A risk management program also includes the
45 administration of one or more joint liability funds, including the
46 processing and defense of claims brought against or on behalf of
47 members of the group.

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1 2. A State college is authorized to insure, contract or provide for
2 any insurable interest of the State college in the manner authorized
3 by section 3 of this act, for the following:

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

6 b. Loss or damage from liability as established by the “New
7 Jersey Contractual Liability Act,” P.L.1972, c.45 (C.59:13-1 et
8 seq.);

9 c. Loss or damage from liability as established by the workers’
10 compensation law, R.S.34:15-1 et seq.; and

11 d. Expenses of defending any claim against the State college,
12 trustee, officer, employee or servant arising out of and in the course
13 of the performance of their duties, whether or not liability exists on
14 the claim, not eligible for defense and indemnification by the State
15 of New Jersey in accordance with the provisions of the “New Jersey
16 Tort Claims Act,” N.J.S.59:1-1 et seq.

17

18 3. a. Any two or more State colleges may form and become
19 members of a State college risk management group. A State college
20 may take this action by resolution of the board of trustees of the
21 State college. Through membership in a State college risk
22 management group, a State college may participate in any joint
23 liability funds, risk management programs or related services
24 offered or provided by the group. The group shall have the power
25 to establish funds for coverages authorized in section 2 of this act
26 and to jointly purchase insurance or coverages under a master
27 policy or contract of insurance for participating members. The
28 group shall have the power to take other actions necessary to
29 developing, administering, and providing risk management
30 programs, joint liability funds, joint insurance purchases, and
31 related services.

32 b. The bylaws of the State college risk management group shall
33 provide that any State college may join the group, provided it
34 agrees to comply with the standards for membership, including risk
35 management programs, which shall be established by the group, and
36 may be a member as long as it complies with the standards for
37 membership.

38 c. A State college risk management group may sue or be sued
39 for the liabilities and coverages authorized by section 2 of this act
40 and shall appoint a natural person residing in this State or a
41 corporation authorized to do business in this State as its agent for
42 service of process. The group shall notify the State Treasurer and
43 the Office of the Attorney General of the appointment.

44 d. A State college risk management group shall not be
45 considered or deemed to be an insurance company or an insurer
46 under the laws of this State and the development, administration or
47 provision by a group of joint liability funds, risk management
48 programs, and related services shall not constitute the transaction of

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1 insurance or the conducting of an insurance business. A group shall
2 not be subject to the provisions of Title 17, Subtitle 3 of the New
3 Jersey Statutes.

4

5 4. a. The bylaws of a State college risk management group
6 shall:

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

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

10 (3) provide for the delivery of risk management programs in
11 conjunction with any joint liability fund which the board of trustees
12 shall establish;

13 (4) set forth procedures to enforce the collection of any
14 contributions or payments in default;

15 (5) set forth membership standards as required in section 3 of
16 this act;

17 (6) require that, for each joint liability fund, a contract or
18 contracts of specific and aggregate excess insurance or reinsurance
19 is maintained if available unless otherwise recommended by the
20 trustees upon the advice and report of an independent actuary;

21 (7) set forth procedures for:

22 (a) withdrawal from the group and a fund by a member;

23 (b) termination of the group or fund and disposition of assets;
24 and

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

28 (8) require an annual certified audit to be prepared and filed
29 with the State Treasurer;

30 (9) require that any joint liability fund be developed and
31 operated in accordance with accepted and sound actuarial practices;

32 (10) provide that any expenditure of moneys in a fund be in
33 furtherance of the purpose of the fund; and

34 (11) set forth other provisions as desired for operation and
35 governance of the group.

36 b. The bylaws of a State college risk management group shall
37 provide for governance of the group by a board of trustees selected
38 in accordance with the provisions of the bylaws. The bylaws shall
39 provide for trustee powers and duties and shall include, but not be
40 limited to, the following powers of the board of trustees:

41 (1) to determine and establish contributions and rates, loss
42 reserves, surplus, limits of coverage, limits of excess or reinsurance,
43 coverage documents, dividends and other financial and operating
44 policies of the group or fund;

45 (2) to invest moneys held in trust under a fund in investments
46 which are approved for investment by regulation of the State
47 Investment Council for surplus moneys of the State;

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1 (3) to purchase, acquire, hold, lease, sell and convey real and
2 personal property, all of which property shall be exempt from
3 taxation under chapter 4 of Title 54 of the New Jersey Statutes;

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

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

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

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

14

15 5. a. The board of trustees of a State college risk management
16 group shall have not less than three or more than 15 trustees. A
17 trustee shall be a natural person 18 years of age or older who is a
18 resident of this State. A majority of the trustees of a group shall be
19 members or employees of member State colleges, provided that a
20 trustee who ceases to be a member or employee of a State college
21 may be allowed to serve for not more than 90 days following
22 cessation without violating this provision.

23 b. A trustee shall not be paid a salary, except that the written
24 trust instrument may provide for reimbursement for actual expenses
25 incurred on behalf of the fund and for compensation not to exceed
26 \$200 for any day or portion of a day spent at a meeting of the
27 trustees. Except as otherwise provided in this act, a trustee shall not
28 enter into any contract with the group or receive any moneys or
29 other compensation or thing of value whatsoever from the group for
30 services performed for or on behalf of the group.

31

32 6. a. A State college risk management group, or any joint
33 liability fund of the group, shall not begin functioning as a means of
34 providing coverage or protection for or among its members until the
35 group's bylaws have been filed with and approved by the State
36 Treasurer. The State Treasurer may disapprove the bylaws only if
37 the bylaws do not conform with the provisions of this act. The
38 State Treasurer shall set forth the reasons for disapproval in
39 writing. If the State Treasurer fails to approve or disapprove the
40 bylaws within 60 days following filing of the bylaws in the State
41 Treasurer's office, the bylaws shall be deemed approved. The
42 reasonable costs of the State Treasurer's review of the bylaws shall
43 be chargeable to the State colleges seeking to establish the group.

44 b. A State college risk management group shall file an annual
45 report, on a form to be prescribed by the State Treasurer, and shall
46 include a financial statement of the group's assets and liabilities, the
47 claims paid during the preceding 12 months, current reserves,

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1 incurred losses, and any other information that the State Treasurer
2 may require.

3 c. The State Treasurer shall have authority to examine the
4 books, records and affairs of any State college risk management
5 group or any of its liability funds at a time to be fixed by the State
6 Treasurer. The reasonable costs of any examination or review shall
7 be chargeable to the State college risk management group.

8 d. If at any time the State Treasurer determines that the State
9 college risk management group has experienced a deterioration in
10 its financial condition which adversely affects or will adversely
11 affect its ability to pay expected losses, the State Treasurer may:

12 (1) require an increase in the reserves of the group as required by
13 section 4 of this act; or

14 (2) require the purchase of excess insurance or reinsurance.

15 7. Funds for premiums required by the contract between the
16 governing body of the State college and the board of trustees of the
17 fund shall be appropriated and paid as set forth in the contract in the
18 same manner as appropriations are made for other expenses of the
19 State college.

20 8. This act shall take effect immediately.

21

22

23 **STATEMENT**

24

25 The bill authorizes two or more State colleges or universities to
26 form a State college risk management group and to participate in
27 joint liability funds, risk management programs, and related
28 services provided by the group, subject to certain regulatory
29 oversight by the State Treasurer.

30 The bill provides that the State college risk management group
31 shall have the authority to establish joint liability funds through the
32 contributions of its members and to jointly purchase insurance
33 under a master policy for participating members in the areas of
34 property damage, liability, and workers' compensation coverage. A
35 State college or university, upon a resolution of its board of
36 trustees, may elect to participate in a group.

37 The State college risk management group shall establish bylaws
38 to provide for, among other things: operation and governance of the
39 group; procedures for the collection of contributions and payments
40 from members; the maintenance of excess insurance or reinsurance
41 for each joint liability fund; and withdrawal from the group. The
42 bylaws of the group shall also provide for the selection of a board
43 of trustees which shall exercise governing power over the group.
44 The board is to consist of not less than three or more than 15
45 trustees who are members or employees of the member colleges or
46 universities.

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7

1 Under the bill's provisions, a State college risk management
2 group, or any joint liability fund of the group, shall not begin
3 functioning until its bylaws have been approved by the State
4 Treasurer. A group must file an annual report, including a financial
5 statement, with the State Treasurer. If at any time the State
6 Treasurer determines that the group has experienced a deterioration
7 in its financial condition which adversely affects its ability to pay
8 expected claims, the State Treasurer may require the group to either
9 increase its reserves or purchase additional excess insurance or
10 reinsurance.

SENATE, No. 2067

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JUNE 21, 2010

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

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4 c.56.

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11 established pursuant to the bylaws of the State college risk
12 management group to govern or manage the risk management
13 programs, joint liability funds, and related services of the group.

14 "Certified audit" means an audit upon which an auditor expresses
15 a professional opinion that the accompanying statements present
16 fairly the financial position of a joint liability fund in conformity
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19 procedures as considered necessary in the circumstances.

20 "Contributions" means the moneys paid by a member of a State
21 college risk management group in amounts as may be set by the
22 board of trustees or other officers as provided in the group's bylaws
23 for the purposes of participating in a joint liability fund or funds, or
24 securing risk management programs or related services.

25 "Joint liability fund" or "fund" means a joint liability fund
26 established by a State college risk management group pursuant to
27 this act. The joint liability fund is a fund of public moneys from
28 contributions made by members of a State college risk management
29 group for the purpose of securing insurance, risk management
30 programs, or related services as authorized by this act.

31 "State college" means any of the State colleges or universities
32 established pursuant to chapter 64 of Title 18A of the New Jersey
33 Statutes.

34 "State college risk management group" or "group" means an
35 association formed by two or more State colleges for the
36 development, administration, and provision of risk management
37 programs, joint liability funds for the payment of liabilities incurred
38 by the State colleges and not funded by the State of New Jersey
39 pursuant to the provisions of the "New Jersey Tort Claims Act,"
40 N.J.S.59:1-1 et seq., and related services.

41 "Risk management program" means a plan, and activities carried
42 out under the plan, by a State college risk management group to
43 reduce risk of loss with respect to liabilities incurred by the State
44 colleges, including safety engineering and other loss prevention and
45 control techniques. A risk management program also includes the

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 administration of one or more joint liability funds, including the
2 processing and defense of claims brought against or on behalf of
3 members of the group.

4 2. (New section) A State college is authorized to insure,
5 contract or provide for any insurable interest of the State college in
6 the manner authorized by section 3 of this act, for the following:

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

9 b. Loss or damage from liability as established by the “New
10 Jersey Contractual Liability Act,” [P.L.1972, c.45 (C.59:13-1 et
11 seq.)] N.J.S.59:13-1 et seq.;

12 c. Loss or damage from liability as established by the workers’
13 compensation law, R.S.34:15-1 et seq.; and

14 d. Expenses of defending any claim against the State college,
15 trustee, officer, employee or servant arising out of and in the course
16 of the performance of their duties, whether or not liability exists on
17 the claim, not eligible for defense and indemnification by the State
18 of New Jersey in accordance with the provisions of the “New Jersey
19 Tort Claims Act,” N.J.S.59:1-1 et seq.

20

21 3. (New section) a. Any two or more State colleges may form
22 and become members of a State college risk management group. A
23 State college may take this action by resolution of the board of
24 trustees of the State college. Through membership in a State
25 college risk management group, a State college may participate in
26 any joint liability funds, risk management programs or related
27 services offered or provided by the group. The group shall have the
28 power to establish funds for coverages authorized in section 2 of
29 this act and to jointly purchase insurance or coverages under a
30 master policy or contract of insurance for participating members.
31 The group shall have the power to take other actions necessary to
32 developing, administering, and providing risk management
33 programs, joint liability funds, joint insurance purchases, and
34 related services.

35 b. The bylaws of the State college risk management group shall
36 provide that any State college may join the group, provided it
37 agrees to comply with the standards for membership, including risk
38 management programs, which shall be established by the group, and
39 may be a member as long as it complies with the standards for
40 membership.

41 c. A State college risk management group may sue or be sued
42 for the liabilities and coverages authorized by section 2 of this act
43 and shall appoint a natural person residing in this State or a
44 corporation authorized to do business in this State as its agent for
45 service of process. The group shall notify the State Treasurer and
46 the Office of the Attorney General of the appointment.

47 d. A State college risk management group shall not be
48 considered or deemed to be an insurance company or an insurer

1 under the laws of this State and the development, administration or
2 provision by a group of joint liability funds, risk management
3 programs, and related services shall not constitute the transaction of
4 insurance or the conducting of an insurance business. A group shall
5 not be subject to the provisions of Title 17, Subtitle 3 of the
6 Revised Statutes.

7

8 4. (New section) a. The bylaws of a State college risk
9 management group shall:

10 (1) set forth a statement of purposes of the group;

11 (2) set forth provisions for organization of the group, including
12 governance by a board of trustees;

13 (3) provide for the delivery of risk management programs in
14 conjunction with any joint liability fund which the board of trustees
15 shall establish;

16 (4) set forth procedures to enforce the collection of any
17 contributions or payments in default;

18 (5) set forth membership standards as required in section 3 of
19 this act;

20 (6) require that, for each joint liability fund, a contract or
21 contracts of specific and aggregate excess insurance or reinsurance
22 is maintained, if available, unless otherwise recommended by the
23 trustees upon the advice and report of an independent actuary;

24 (7) set forth procedures for:

25 (a) withdrawal from the group and a fund by a member;

26 (b) termination of the group or fund and disposition of assets;
27 and

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

31 (8) require an annual certified audit to be prepared and filed
32 with the State Treasurer;

33 (9) require that any joint liability fund be developed and
34 operated in accordance with accepted and sound actuarial practices;

35 (10) provide that any expenditure of moneys in a fund be in
36 furtherance of the purpose of the fund; and

37 (11) set forth other provisions as desired for operation and
38 governance of the group.

39 b. The bylaws of a State college risk management group shall
40 provide for governance of the group by a board of trustees selected
41 in accordance with the provisions of the bylaws. The bylaws shall
42 provide for trustee powers and duties and shall include, but not be
43 limited to, the following powers of the board of trustees:

44 (1) to determine and establish contributions and rates, loss
45 reserves, surplus, limits of coverage, limits of excess or reinsurance,
46 coverage documents, dividends and other financial and operating
47 policies of the group or fund;

1 (2) to invest moneys held in trust under a fund in investments
2 which are approved for investment by regulation of the State
3 Investment Council for surplus moneys of the State;

4 (3) to purchase, acquire, hold, lease, sell and convey real and
5 personal property, all of which property shall be exempt from
6 taxation under chapter 4 of Title 54 of the Revised Statutes;

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

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

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

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

17

18 5. (New section) a. The board of trustees of a State college risk
19 management group shall have not less than three or more than 15
20 trustees. A trustee shall be a natural person 18 years of age or older
21 who is a resident of this State. A majority of the trustees of a group
22 shall be members or employees of member State colleges, provided
23 that a trustee who ceases to be a member or employee of a State
24 college may be allowed to serve for not more than 90 days
25 following cessation without violating this provision.

26 b. A trustee shall not be paid a salary, except that the written
27 trust instrument may provide for reimbursement for actual expenses
28 incurred on behalf of the fund and for compensation not to exceed
29 \$200 for any day or portion of a day spent at a meeting of the
30 trustees. Except as otherwise provided in this act, a trustee shall not
31 enter into any contract with the group or receive any moneys or
32 other compensation or thing of value whatsoever from the group for
33 services performed for or on behalf of the group.

34

35 6. (New section) a. A State college risk management group, or
36 any joint liability fund of the group, shall not begin functioning as a
37 means of providing coverage or protection for or among its
38 members until the group's bylaws have been filed with and
39 approved by the State Treasurer. The State Treasurer may
40 disapprove the bylaws only if the bylaws do not conform with the
41 provisions of this act. The State Treasurer shall set forth the
42 reasons for disapproval in writing. If the State Treasurer fails to
43 approve or disapprove the bylaws within 60 days following filing of
44 the bylaws in the State Treasurer's office, the bylaws shall be
45 deemed approved. The reasonable costs of the State Treasurer's
46 review of the bylaws shall be chargeable to the State colleges
47 seeking to establish the group.

1 b. A State college risk management group shall file an annual
2 report, on a form to be prescribed by the State Treasurer, and shall
3 include a financial statement of the group's assets and liabilities, the
4 claims paid during the preceding 12 months, current reserves,
5 incurred losses, and any other information that the State Treasurer
6 may require.

7 c. The State Treasurer shall have authority to examine the
8 books, records and affairs of any State college risk management
9 group or any of its liability funds at a time to be fixed by the State
10 Treasurer. The reasonable costs of any examination or review shall
11 be chargeable to the State college risk management group.

12 d. If at any time the State Treasurer determines that the State
13 college risk management group has experienced a deterioration in
14 its financial condition which adversely affects or will adversely
15 affect its ability to pay expected losses, the State Treasurer may:

16 (1) require an increase in the reserves of the group as required
17 by section 4 of this act; or

18 (2) require the purchase of excess insurance or reinsurance.

19 7. (New section) Funds for premiums required by the contract
20 between the governing body of the State college and the board of
21 trustees of the fund shall be appropriated and paid as set forth in the
22 contract in the same manner as appropriations are made for other
23 expenses of the State college.

24 8. Section 3 of P.L.2007, c.56 (C.52:18A-221) is amended to
25 read as follows.

26 3. The mission of the division shall be to implement a well-
27 coordinated strategy to identify and respond to the needs of the
28 various departments and agencies of State Government in this
29 regard. Specifically, the division shall:

30 a. Procure insurance coverage, if appropriate, for any or all of
31 the various departments and agencies of State Government, other
32 than State colleges that procure coverage through risk management
33 programs, joint liability funds, or joint insurance programs pursuant
34 to P.L. c. (C.) (pending before the Legislature as this bill)
35 and independent authorities and instrumentalities of the State,
36 including, as otherwise required by law or as appropriate, coverage
37 through self-insurance and use of third party administrators;

38 b. Assist the various departments and agencies of State
39 Government in developing sound plans of risk management,
40 including developing programs to protect physical assets, and
41 developing and implementing safety programs to mitigate both the
42 frequency and severity of accidental loss and by reviewing these
43 plans and programs from time to time;

44 c. Administer the processing of all claims for the various self-
45 administered and self-funded insurance programs of State agencies
46 and departments, with litigation support from the Department of

1 Law and Public Safety , except those claims processed by risk
2 management programs, joint liability funds, or joint insurance
3 programs established by State colleges pursuant to P.L. _____,
4 c. _____ (C. _____) (pending before the Legislature as this bill);

5 d. Compile and distribute, on a monthly basis, accident
6 frequency reports to the Governor, the commissioner of each
7 principal department of State Government, and the Legislature.
8 These reports shall track each department's current accident rate
9 compared to historical trends and shall include summaries of any
10 protocols in place to reduce risk; and

11 e. Continue all of the previous functions and responsibilities of
12 the Bureau of Risk Management, in addition to those listed in this
13 section, and develop new strategies and programs, as appropriate.
14 (cf: P.L.2007, c.56, s.3)

15

16 9. This act shall take effect immediately.

17

18

19

STATEMENT

20

21 The bill authorizes two or more State colleges or universities to
22 form a State college risk management group and to participate in
23 joint liability funds, risk management programs, and related
24 services provided by the group, subject to certain regulatory
25 oversight by the State Treasurer. Currently, the Division of Risk
26 Management in the Department of the Treasury administers certain
27 insurance coverage programs for various agencies of State
28 government, including State colleges. This bill would modify that
29 authority in order to allow State colleges to form their own risk
30 management groups and joint liability funds to provide that
31 coverage.

32 The bill provides that the State college risk management group
33 shall have the authority to establish joint liability funds through the
34 contributions of its members and to jointly purchase insurance
35 under a master policy for participating members in the areas of
36 property damage, liability, and workers' compensation coverage. A
37 State college or university, upon a resolution of its board of
38 trustees, may elect to participate in a group.

39 The State college risk management group shall establish bylaws
40 to provide for, among other things: operation and governance of the
41 group; procedures for the collection of contributions and payments
42 from members; the maintenance of excess insurance or reinsurance
43 for each joint liability fund; and withdrawal from the group. The
44 bylaws of the group shall also provide for the selection of a board
45 of trustees which shall exercise governing power over the group.
46 The board is to consist of not less than three or more than 15
47 trustees, a majority of whom shall be members or employees of the
48 member colleges or universities.

1 Under the bill's provisions, a State college risk management
2 group, or any joint liability fund of the group, shall not begin
3 functioning until its bylaws have been approved by the State
4 Treasurer. A group must file an annual report, including a financial
5 statement, with the State Treasurer. If at any time the State
6 Treasurer determines that the group has experienced a deterioration
7 in its financial condition which adversely affects its ability to pay
8 expected claims, the State Treasurer may require the group to either
9 increase its reserves or purchase additional excess insurance or
10 reinsurance.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2067
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: JULY 27, 2010

SUMMARY

Synopsis: Authorizes formation of State college risk management groups and joint liability funds.

Type of Impact: No impact, State General Fund.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	No impact	No impact	No impact

- The Office of Legislative Services estimates that this bill will most likely have no fiscal impact on the State General Fund. Current expenditures from the State for insurance related costs incurred by colleges and universities are reimbursed to the State by the college or university.

BILL DESCRIPTION

Senate Bill No. 2067 of 2010 authorizes two or more State colleges or universities to form a State college risk management group and to participate in joint liability funds, risk management programs, and related services provided by the group, subject to certain regulatory oversight by the State Treasurer. Currently, the Division of Risk Management in the Department of the Treasury administers certain insurance coverage programs for various agencies of State government, including State colleges. This bill would modify that authority in order to allow State colleges to form their own risk management groups and joint liability funds to provide that coverage.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the enhanced ability of universities and colleges to form their own risk management groups will be cost neutral to the State General Fund. Currently, the Division of Risk Management in the Department of the Treasury acts as the insurance provider for State colleges and universities, except: Rutgers, the State University of New Jersey; the New Jersey Institute of Technology; and, the University of Medicine and Dentistry of New Jersey. Any costs incurred by the State in administering insurance claims for the State colleges and universities are reimbursed to the State by the colleges and universities. Thus, there should be no overall cost or savings attributed to shifting this function to the private management groups permitted pursuant to this legislation.

Section: Commerce, Labor and Industry

*Analyst: Robin C. Ford
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 1998 and 2067**

STATE OF NEW JERSEY

DATED: AUGUST 16, 2010

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 1998 and 2067.

This committee substitute authorizes two or more State colleges or universities to form a State college risk management group and to participate in joint liability funds, risk management programs, and related services provided by the group, subject to certain regulatory oversight by the Commissioner of Banking and Insurance. Currently, the Division of Risk Management in the Department of the Treasury administers certain insurance coverage programs for various agencies of State government, including State colleges. This substitute would modify that authority in order to allow State colleges to form their own risk management groups and joint liability funds to provide that coverage.

The substitute provides that the State college risk management group shall have the authority to establish joint liability funds through the contributions of its members and to jointly purchase insurance under a master policy for participating members in the areas of property damage, liability, and workers' compensation coverage. A State college or university, upon a resolution of its board of trustees, may elect to participate in a group.

The State college risk management group shall establish bylaws to provide for, among other things: operation and governance of the group; procedures for the collection of contributions and payments from members; the maintenance of excess insurance or reinsurance for each joint liability fund; and withdrawal from the group. The bylaws of the group shall also provide for the selection of a board of trustees which shall exercise governing power over the group. The board is to consist of not less than three or more than 15 trustees, a majority of whom shall be members or employees of the member colleges or universities.

Under the substitute's provisions, a State college risk management group, or any joint liability fund of the group, shall not begin functioning until its bylaws have been approved by the Commissioner of Banking and Insurance. A group must file an annual report,

including a financial statement, with the commissioner. If at any time the commissioner determines that the group has experienced a deterioration in its financial condition which adversely affects its ability to pay expected claims, the commissioner may require the group to either increase its reserves or purchase additional excess insurance or reinsurance.

FISCAL IMPACT:

In the Legislative Fiscal Estimate on a similar bill, the Office of Legislative Services (OLS) estimates that the legislation will most likely have no fiscal impact on the State General Fund. Currently, the Division of Risk Management in the Department of the Treasury acts as the insurance provider for State colleges and universities, except: Rutgers, the State University of New Jersey; the New Jersey Institute of Technology; and, the University of Medicine and Dentistry of New Jersey. Any costs incurred by the State in administering insurance claims for the State colleges and universities are reimbursed to the State by the colleges and universities. Thus, OLS notes that there should be no overall cost or savings attributed to shifting this function to the risk management groups permitted under the bill.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 1998
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: AUGUST 24, 2010

SUMMARY

Synopsis: Authorizes formation of State college risk management groups and their participation in joint liability funds.

Type of Impact: No impact, State General Fund.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	No impact	No impact	No impact

- The Office of Legislative Services estimates that this bill will most likely have no fiscal impact on the State General Fund. Current expenditures from the State for insurance related costs incurred by colleges and universities are reimbursed to the State by the college or university.

BILL DESCRIPTION

Senate Bill No. 1998 of 2010 authorizes two or more State colleges or universities to form a State college risk management group and to participate in joint liability funds, risk management programs, and related services provided by the group, subject to certain regulatory oversight by the State Treasurer.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the enhanced ability of universities and colleges to form their own risk management groups will be cost neutral to the State General Fund. Currently, the Division of Risk Management in the Department of the Treasury acts as the

insurance provider for State colleges and universities, except: Rutgers, the State University of New Jersey; the New Jersey Institute of Technology; and, the University of Medicine and Dentistry of New Jersey. Any costs incurred by the State in administering insurance claims for the State colleges and universities are reimbursed to the State by the colleges and universities. Thus, there should be no overall cost or savings attributed to shifting this function to the private management groups permitted pursuant to this legislation.

Section: Commerce, Labor and Industry
Analyst: Richard T. Corbett
Senior Counsel
Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 1998 and 2067
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: OCTOBER 1, 2010

SUMMARY

Synopsis: Authorizes formation of State college risk management groups and joint liability funds.

Type of Impact: No impact, State General Fund

Agencies Affected: Department of Banking and Insurance

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	No impact	No impact	No impact

- The Office of Legislative Services estimates that this bill will most likely have no fiscal impact on the State General Fund. Current expenditures from the State for insurance related costs incurred by colleges and universities are reimbursed to the State by the college or university.

BILL DESCRIPTION

The Senate Committee Substitute for Senate Bill Nos. 1998 and 2067 of 2010 authorizes two or more State colleges or universities to form a State college risk management group and to participate in joint liability funds, risk management programs, and related services provided by the group, subject to certain regulatory oversight by the Commissioner of Banking and Insurance. Currently, the Division of Risk Management in the Department of the Treasury administers certain insurance coverage programs for various agencies of State government, including State colleges. This bill would modify that authority in order to allow State colleges to form their own risk management groups and joint liability funds to provide that coverage.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the enhanced ability of universities and colleges to form their own risk management groups will be cost neutral to the State General Fund. Currently, the Division of Risk Management in the Department of the Treasury acts as the insurance provider for State colleges and universities, except: Rutgers, the State University of New Jersey; the New Jersey Institute of Technology; and the University of Medicine and Dentistry of New Jersey. Any costs incurred by the State in administering insurance claims for the State colleges and universities are reimbursed to the State by the colleges and universities. Thus, there should be no overall cost or savings attributed to shifting this function to the private management groups permitted pursuant to this legislation.

Section: *Commerce, Labor and Industry*

Analyst: *Richard T. Corbett*
 Senior Counsel

Approved: *David J. Rosen*
 Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 1998 and 2067**

STATE OF NEW JERSEY

DATED: OCTOBER 18, 2010

The Assembly Budget Committee reports favorably Senate Bill Nos. 1998 and 2067 (SCS).

This bill authorizes two or more State colleges or universities to form a State college risk management group and to participate in joint liability funds, risk management programs, and related services provided by the group, subject to certain regulatory oversight by the Commissioner of Banking and Insurance. Currently, the Division of Risk Management in the Department of the Treasury administers certain insurance coverage programs for various agencies of State government, including State colleges. This bill modifies that authority to allow State colleges to form their own risk management groups and joint liability funds to provide that coverage.

The bill authorizes the State college risk management group to establish joint liability funds through the contributions of its members and to jointly purchase insurance under a master policy for participating members in the areas of property damage, liability, and workers' compensation coverage. A State college or university, upon a resolution of its board of trustees, may elect to participate in a group.

The bill directs the State college risk management group to establish bylaws to provide for, among other things: operation and governance of the group; procedures for the collection of contributions and payments from members; the maintenance of excess insurance or reinsurance for each joint liability fund; and withdrawal from the group. The bylaws of the group shall also provide for the selection of a board of trustees which shall exercise governing power over the group. The board shall consist of not less than three or more than 15 trustees, a majority of whom shall be members or employees of the member colleges or universities.

Under the bill's provisions, a State college risk management group, or any joint liability fund of the group, shall not begin functioning until its bylaws have been approved by the Commissioner of Banking and Insurance. The bill requires a group to file an annual report, including a financial statement, with the commissioner. If at any time the commissioner determines that the group has experienced a deterioration in its financial condition which adversely affects its

ability to pay expected claims, the commissioner may require the group to either increase its reserves or purchase additional excess insurance or reinsurance.

As reported by the committee, this bill is identical to the Assembly Committee Substitute for Assembly Bill Nos. 3358 and 2965, as substituted and also reported by the committee.

FISCAL IMPACT:

The administration has not provided information on the fiscal impact of this bill as required pursuant to the Fiscal Note Law. In the Legislative Fiscal Estimate on a similar bill, the Office of Legislative Services (OLS) estimated that the legislation will most likely have no fiscal impact on the State General Fund. Currently, the Division of Risk Management in the Department of the Treasury acts as the insurance provider for State colleges and universities, except: Rutgers, the State University of New Jersey; the New Jersey Institute of Technology; and, the University of Medicine and Dentistry of New Jersey. Any costs incurred by the State in administering insurance claims for the State colleges and universities are reimbursed to the State by the colleges and universities. Thus, OLS notes that there should be no overall cost or savings attributed to shifting this function to the risk management groups permitted under the bill.

ASSEMBLY, No. 3358

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED OCTOBER 7, 2010

Sponsored by:

**Assemblywoman PAMELA R. LAMPITT
District 6 (Camden)**

Co-Sponsored by:

Assemblyman Schaer

SYNOPSIS

Authorizes formation of State college risk management groups and joint liability funds.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/19/2010)

A3358 LAMPITT

2

1 AN ACT concerning the formation of State college risk management
2 groups and joint liability funds, supplementing chapter 64 of
3 Title 18A of the New Jersey Statutes and amending P.L.2007,
4 c.56.

5

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

8

9 1. (New section) As used in this act:

10 "Board of trustees" or "trustees" means the board of trustees
11 established pursuant to the bylaws of the State college risk
12 management group to govern or manage the risk management
13 programs, joint liability funds, and related services of the group.

14 "Certified audit" means an audit upon which an auditor expresses
15 a professional opinion that the accompanying statements present
16 fairly the financial position of a joint liability fund in conformity
17 with generally accepted accounting principles consistently applied,
18 and includes tests of the accounting records and other auditing
19 procedures as considered necessary in the circumstances.

20 "Commissioner" means the Commissioner of Banking and
21 Insurance.

22 "Contributions" means the moneys paid by a member of a State
23 college risk management group in amounts as may be set by the
24 board of trustees or other officers as provided in the group's bylaws
25 for the purposes of participating in a joint liability fund or funds, or
26 securing risk management programs or related services.

27 "Joint liability fund" or "fund" means a joint liability fund
28 established by a State college risk management group pursuant to
29 this act. The joint liability fund is a fund of public moneys from
30 contributions made by members of a State college risk management
31 group for the purpose of securing insurance, risk management
32 programs, or related services as authorized by this act.

33 "State college" means any of the State colleges or universities
34 established pursuant to chapter 64 of Title 18A of the New Jersey
35 Statutes.

36 "State college risk management group" or "group" means an
37 association formed by two or more State colleges for the
38 development, administration, and provision of risk management
39 programs, joint liability funds for the payment of liabilities incurred
40 by the State colleges and not funded by the State of New Jersey
41 pursuant to the provisions of the "New Jersey Tort Claims Act,"
42 N.J.S.59:1-1 et seq., and related services.

43 "Risk management program" means a plan, and activities carried
44 out under the plan, by a State college risk management group to
45 reduce risk of loss with respect to liabilities incurred by the State

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 colleges, including safety engineering and other loss prevention and
2 control techniques. A risk management program also includes the
3 administration of one or more joint liability funds, including the
4 processing and defense of claims brought against or on behalf of
5 members of the group.

6
7 2. (New section) A State college is authorized to insure,
8 contract or provide for any insurable interest of the State college in
9 the manner authorized by section 3 of this act, for the following:

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

12 b. Loss or damage from liability as established by the "New
13 Jersey Contractual Liability Act," N.J.S.59:13-1 et seq.;

14 c. Loss or damage from liability as established by the workers'
15 compensation law, R.S.34:15-1 et seq.; and

16 d. Expenses of defending any claim against the State college,
17 trustee, officer, employee or servant arising out of and in the course
18 of the performance of their duties, whether or not liability exists on
19 the claim, not eligible for defense and indemnification by the State
20 of New Jersey in accordance with the provisions of the "New Jersey
21 Tort Claims Act," N.J.S.59:1-1 et seq.

22
23 3. (New section) a. Any two or more State colleges may form
24 and become members of a State college risk management group. A
25 State college may take this action by resolution of the board of
26 trustees of the State college. Through membership in a State
27 college risk management group, a State college may participate in
28 any joint liability funds, risk management programs or related
29 services offered or provided by the group. The group shall have the
30 power to establish funds for coverages authorized in section 2 of
31 this act and to jointly purchase insurance or coverages under a
32 master policy or contract of insurance for participating members.
33 The group shall have the power to take other actions necessary to
34 developing, administering, and providing risk management
35 programs, joint liability funds, joint insurance purchases, and
36 related services.

37 b. The bylaws of the State college risk management group shall
38 provide that any State college may join the group, provided it
39 agrees to comply with the standards for membership, including risk
40 management programs, which shall be established by the group, and
41 may be a member as long as it complies with the standards for
42 membership.

43 c. A State college risk management group may sue or be sued
44 for the liabilities and coverages authorized by section 2 of this act
45 and shall appoint a natural person residing in this State or a
46 corporation authorized to do business in this State as its agent for
47 service of process. The group shall notify the commissioner and the
48 Office of the Attorney General of the appointment.

1 d. A State college risk management group shall not be
2 considered or deemed to be an insurance company or an insurer
3 under the laws of this State and the development, administration or
4 provision by a group of joint liability funds, risk management
5 programs, and related services shall not constitute the transaction of
6 insurance or the conducting of an insurance business. A group shall
7 not be subject to the provisions of Title 17, Subtitle 3 of the
8 Revised Statutes.

9
10 4. (New section) a. The bylaws of a State college risk
11 management group shall:

12 (1) set forth a statement of purposes of the group;

13 (2) set forth provisions for organization of the group, including
14 governance by a board of trustees;

15 (3) provide for the delivery of risk management programs in
16 conjunction with any joint liability fund which the board of trustees
17 shall establish;

18 (4) set forth procedures to enforce the collection of any
19 contributions or payments in default;

20 (5) set forth membership standards as required in section 3 of
21 this act;

22 (6) require that, for each joint liability fund, a contract or
23 contracts of specific and aggregate excess insurance or reinsurance
24 is maintained, if available, unless otherwise recommended by the
25 trustees upon the advice and report of an independent actuary;

26 (7) set forth procedures for:

27 (a) withdrawal from the group and a fund by a member;

28 (b) termination of the group or fund and disposition of assets;
29 and

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

33 (8) require an annual certified audit to be prepared and filed
34 with the commissioner;

35 (9) require that any joint liability fund be developed and
36 operated in accordance with accepted and sound actuarial practices;

37 (10) provide that any expenditure of moneys in a fund be in
38 furtherance of the purpose of the fund; and

39 (11) set forth other provisions as desired for operation and
40 governance of the group.

41 b. The bylaws of a State college risk management group shall
42 provide for governance of the group by a board of trustees selected
43 in accordance with the provisions of the bylaws. The bylaws shall
44 provide for trustee powers and duties and shall include, but not be
45 limited to, the following powers of the board of trustees:

46 (1) to determine and establish contributions and rates, loss
47 reserves, surplus, limits of coverage, limits of excess or reinsurance,

1 coverage documents, dividends and other financial and operating
2 policies of the group or fund;

3 (2) to invest moneys held in trust under a fund in investments
4 which are approved for investment by regulation of the State
5 Investment Council for surplus moneys of the State;

6 (3) to purchase, acquire, hold, lease, sell and convey real and
7 personal property, all of which property shall be exempt from
8 taxation under chapter 4 of Title 54 of the Revised Statutes;

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

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

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

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

19

20 5. (New section) a. The board of trustees of a State college risk
21 management group shall have not less than three or more than 15
22 trustees. A trustee shall be a natural person 18 years of age or older
23 who is a resident of this State. A majority of the trustees of a group
24 shall be members or employees of member State colleges, provided
25 that a trustee who ceases to be a member or employee of a State
26 college may be allowed to serve for not more than 90 days
27 following cessation without violating this provision.

28 b. A trustee shall not be paid a salary, except that the written
29 trust instrument may provide for reimbursement for actual expenses
30 incurred on behalf of the fund and for compensation not to exceed
31 \$200 for any day or portion of a day spent at a meeting of the
32 trustees. Except as otherwise provided in this act, a trustee shall not
33 enter into any contract with the group or receive any moneys or
34 other compensation or thing of value whatsoever from the group for
35 services performed for or on behalf of the group.

36

37 6. (New section) a. A State college risk management group, or
38 any joint liability fund of the group, shall not begin functioning as a
39 means of providing coverage or protection for or among its
40 members until the group's bylaws have been filed with and
41 approved by the commissioner. The commissioner may disapprove
42 the bylaws only if the bylaws do not conform with the provisions of
43 this act. The commissioner shall set forth the reasons for
44 disapproval in writing. If the commissioner fails to approve or
45 disapprove the bylaws within 60 days following filing of the bylaws
46 with the commissioner, the bylaws shall be deemed approved. The
47 reasonable costs of the commissioner's review of the bylaws shall
48 be chargeable to the State colleges seeking to establish the group.

1 b. A State college risk management group shall file an annual
2 report, on a form to be prescribed by the commissioner, and shall
3 include a financial statement of the group's assets and liabilities, the
4 claims paid during the preceding 12 months, current reserves,
5 incurred losses, and any other information that the commissioner
6 may require.

7 c. The commissioner shall have authority to examine the
8 books, records and affairs of any State college risk management
9 group or any of its liability funds at a time to be fixed by the
10 commissioner. The reasonable costs of any examination or review
11 shall be chargeable to the State college risk management group.

12 d. If at any time the commissioner determines that the State
13 college risk management group has experienced a deterioration in
14 its financial condition which adversely affects or will adversely
15 affect its ability to pay expected losses, the commissioner may:

16 (1) require an increase in the reserves of the group as required
17 by section 4 of this act; or

18 (2) require the purchase of excess insurance or reinsurance.

19
20 7. (New section) Funds for premiums required by the contract
21 between the governing body of the State college and the board of
22 trustees of the State college risk management group shall be
23 appropriated and paid as set forth in the contract in the same
24 manner as appropriations are made for other expenses of the State
25 college.

26
27 8. (New section) The Commissioner of Banking and Insurance
28 shall promulgate rules and regulations necessary to effectuate the
29 purposes of this act pursuant to the "Administrative Procedure Act,"
30 P.L.1968, c.410 (C.52:14B-1 et seq.). The rules and regulations
31 shall include, but not be limited to, the establishment, operation,
32 modification and dissolution of a State college joint liability fund
33 established pursuant to the provisions of this act.

34
35 9. Section 3 of P.L.2007, c.56 (C.52:18A-221) is amended to
36 read as follows.

37 3. The mission of the division shall be to implement a well-
38 coordinated strategy to identify and respond to the needs of the
39 various departments and agencies of State Government in this
40 regard. Specifically, the division shall:

41 a. Procure insurance coverage, if appropriate, for any or all of
42 the various departments and agencies of State Government, other
43 than State colleges that procure coverage through risk management
44 programs, joint liability funds, or joint insurance programs pursuant
45 to P.L. c. (C.) (pending before the Legislature as this bill)
46 and independent authorities and instrumentalities of the State,
47 including, as otherwise required by law or as appropriate, coverage
48 through self-insurance and use of third party administrators;

1 b. Assist the various departments and agencies of State
2 Government in developing sound plans of risk management,
3 including developing programs to protect physical assets, and
4 developing and implementing safety programs to mitigate both the
5 frequency and severity of accidental loss and by reviewing these
6 plans and programs from time to time;

7 c. Administer the processing of all claims for the various self-
8 administered and self-funded insurance programs of State agencies
9 and departments, with litigation support from the Department of
10 Law and Public Safety, except those claims processed by risk
11 management programs, joint liability funds, or joint insurance
12 programs established by State colleges pursuant to
13 P.L. , c. (C.) (pending before the Legislature as this bill);

14 d. Compile and distribute, on a monthly basis, accident
15 frequency reports to the Governor, the commissioner of each
16 principal department of State Government, and the Legislature.
17 These reports shall track each department's current accident rate
18 compared to historical trends and shall include summaries of any
19 protocols in place to reduce risk; and

20 e. Continue all of the previous functions and responsibilities of
21 the Bureau of Risk Management, in addition to those listed in this
22 section, and develop new strategies and programs, as appropriate.
23 (cf: P.L.2007, c.56, s.3)

24
25 10. This act shall take effect immediately.
26
27

28 STATEMENT

29
30 This bill authorizes two or more State colleges or universities to
31 form a State college risk management group and to participate in
32 joint liability funds, risk management programs, and related
33 services provided by the group, subject to certain regulatory
34 oversight by the Commissioner of Banking and Insurance.
35 Currently, the Division of Risk Management in the Department of
36 the Treasury administers certain insurance coverage programs for
37 various agencies of State government, including State colleges.
38 This substitute would modify that authority in order to allow State
39 colleges to form their own risk management groups and joint
40 liability funds to provide that coverage.

41 The bill provides that the State college risk management group
42 shall have the authority to establish joint liability funds through the
43 contributions of its members and to jointly purchase insurance
44 under a master policy for participating members in the areas of
45 property damage, liability, and workers' compensation coverage. A
46 State college or university, upon a resolution of its board of
47 trustees, may elect to participate in a group.

1 The State college risk management group shall establish bylaws
2 to provide for, among other things: operation and governance of the
3 group; procedures for the collection of contributions and payments
4 from members; the maintenance of excess insurance or reinsurance
5 for each joint liability fund; and withdrawal from the group. The
6 bylaws of the group shall also provide for the selection of a board
7 of trustees which shall exercise governing power over the group.
8 The board is to consist of not less than three or more than 15
9 trustees, a majority of whom shall be members or employees of the
10 member colleges or universities.

11 Under the bill's provisions, a State college risk management
12 group, or any joint liability fund of the group, shall not begin
13 functioning until its bylaws have been approved by the
14 Commissioner of Banking and Insurance. A group must file an
15 annual report, including a financial statement, with the
16 commissioner. If at any time the commissioner determines that the
17 group has experienced a deterioration in its financial condition
18 which adversely affects its ability to pay expected claims, the
19 commissioner may require the group to either increase its reserves
20 or purchase additional excess insurance or reinsurance.

ASSEMBLY, No. 2965

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 17, 2010

Sponsored by:

Assemblyman JOHN DIMAIO

District 23 (Warren and Hunterdon)

SYNOPSIS

Authorizes formation of State college risk management groups and joint liability funds.

CURRENT VERSION OF TEXT

As introduced.



A2965 DIMAIO

2

1 AN ACT concerning the formation of State college risk management
2 groups and joint liability funds, supplementing chapter 64 of
3 Title 18A of the New Jersey Statutes and amending P.L.2007,
4 c.56.

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

8
9 1. (New section) As used in this act:

10 "Board of trustees" or "trustees" means the board of trustees
11 established pursuant to the bylaws of the State college risk
12 management group to govern or manage the risk management
13 programs, joint liability funds, and related services of the group.

14 "Certified audit" means an audit upon which an auditor expresses
15 a professional opinion that the accompanying statements present
16 fairly the financial position of a joint liability fund in conformity
17 with generally accepted accounting principles consistently applied,
18 and includes tests of the accounting records and other auditing
19 procedures as considered necessary in the circumstances.

20 "Contributions" means the moneys paid by a member of a State
21 college risk management group in amounts as may be set by the
22 board of trustees or other officers as provided in the group's bylaws
23 for the purposes of participating in a joint liability fund or funds, or
24 securing risk management programs or related services.

25 "Joint liability fund" or "fund" means a joint liability fund
26 established by a State college risk management group pursuant to
27 this act. The joint liability fund is a fund of public moneys from
28 contributions made by members of a State college risk management
29 group for the purpose of securing insurance, risk management
30 programs, or related services as authorized by this act.

31 "State college" means any of the State colleges or universities
32 established pursuant to chapter 64 of Title 18A of the New Jersey
33 Statutes.

34 "State college risk management group" or "group" means an
35 association formed by two or more State colleges for the
36 development, administration, and provision of risk management
37 programs, joint liability funds for the payment of liabilities incurred
38 by the State colleges and not funded by the State of New Jersey
39 pursuant to the provisions of the "New Jersey Tort Claims Act,"
40 N.J.S.59:1-1 et seq., and related services.

41 "Risk management program" means a plan, and activities carried
42 out under the plan, by a State college risk management group to
43 reduce risk of loss with respect to liabilities incurred by the State
44 colleges, including safety engineering and other loss prevention and
45 control techniques. A risk management program also includes the

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 administration of one or more joint liability funds, including the
2 processing and defense of claims brought against or on behalf of
3 members of the group.

4 2. (New section) A State college is authorized to insure, contract
5 or provide for any insurable interest of the State college in the
6 manner authorized by section 3 of this act, for the following:

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

9 b. Loss or damage from liability as established by the "New
10 Jersey Contractual Liability Act," N.J.S.59:13-1 et seq.;

11 c. Loss or damage from liability as established by the workers'
12 compensation law, R.S.34:15-1 et seq.; and

13 d. Expenses of defending any claim against the State college,
14 trustee, officer, employee or servant arising out of and in the course
15 of the performance of their duties, whether or not liability exists on
16 the claim, not eligible for defense and indemnification by the State
17 of New Jersey in accordance with the provisions of the "New Jersey
18 Tort Claims Act," N.J.S.59:1-1 et seq.

19

20 3. (New section) a. Any two or more State colleges may form
21 and become members of a State college risk management group. A
22 State college may take this action by resolution of the board of
23 trustees of the State college. Through membership in a State
24 college risk management group, a State college may participate in
25 any joint liability funds, risk management programs or related
26 services offered or provided by the group. The group shall have the
27 power to establish funds for coverages authorized in section 2 of
28 this act and to jointly purchase insurance or coverages under a
29 master policy or contract of insurance for participating members.
30 The group shall have the power to take other actions necessary to
31 developing, administering, and providing risk management
32 programs, joint liability funds, joint insurance purchases, and
33 related services.

34 b. The bylaws of the State college risk management group shall
35 provide that any State college may join the group, provided it
36 agrees to comply with the standards for membership, including risk
37 management programs, which shall be established by the group, and
38 may be a member as long as it complies with the standards for
39 membership.

40 c. A State college risk management group may sue or be sued
41 for the liabilities and coverages authorized by section 2 of this act
42 and shall appoint a natural person residing in this State or a
43 corporation authorized to do business in this State as its agent for
44 service of process. The group shall notify the State Treasurer and
45 the Office of the Attorney General of the appointment.

46 d. A State college risk management group shall not be
47 considered or deemed to be an insurance company or an insurer
48 under the laws of this State and the development, administration or

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1 provision by a group of joint liability funds, risk management
2 programs, and related services shall not constitute the transaction of
3 insurance or the conducting of an insurance business. A group shall
4 not be subject to the provisions of Title 17, Subtitle 3 of the
5 Revised Statutes.

6
7 4. (New section) a. The bylaws of a State college risk
8 management group shall:

9 (1) set forth a statement of purposes of the group;

10 (2) set forth provisions for organization of the group, including
11 governance by a board of trustees;

12 (3) provide for the delivery of risk management programs in
13 conjunction with any joint liability fund which the board of trustees
14 shall establish;

15 (4) set forth procedures to enforce the collection of any
16 contributions or payments in default;

17 (5) set forth membership standards as required in section 3 of
18 this act;

19 (6) require that, for each joint liability fund, a contract or
20 contracts of specific and aggregate excess insurance or reinsurance
21 is maintained, if available, unless otherwise recommended by the
22 trustees upon the advice and report of an independent actuary;

23 (7) set forth procedures for:

24 (a) withdrawal from the group and a fund by a member;

25 (b) termination of the group or fund and disposition of assets;
26 and

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

30 (8) require an annual certified audit to be prepared and filed
31 with the State Treasurer;

32 (9) require that any joint liability fund be developed and
33 operated in accordance with accepted and sound actuarial practices;

34 (10) provide that any expenditure of moneys in a fund be in
35 furtherance of the purpose of the fund; and

36 (11) set forth other provisions as desired for operation and
37 governance of the group.

38 b. The bylaws of a State college risk management group shall
39 provide for governance of the group by a board of trustees selected
40 in accordance with the provisions of the bylaws. The bylaws shall
41 provide for trustee powers and duties and shall include, but not be
42 limited to, the following powers of the board of trustees:

43 (1) to determine and establish contributions and rates, loss
44 reserves, surplus, limits of coverage, limits of excess or reinsurance,
45 coverage documents, dividends and other financial and operating
46 policies of the group or fund;

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1 (2) to invest moneys held in trust under a fund in investments
2 which are approved for investment by regulation of the State
3 Investment Council for surplus moneys of the State;

4 (3) to purchase, acquire, hold, lease, sell and convey real and
5 personal property, all of which property shall be exempt from
6 taxation under chapter 4 of Title 54 of the Revised Statutes;

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

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

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

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

17

18 5. (New section) a. The board of trustees of a State college risk
19 management group shall have not less than three or more than 15
20 trustees. A trustee shall be a natural person 18 years of age or older
21 who is a resident of this State. A majority of the trustees of a group
22 shall be members or employees of member State colleges, provided
23 that a trustee who ceases to be a member or employee of a State
24 college may be allowed to serve for not more than 90 days
25 following cessation without violating this provision.

26 b. A trustee shall not be paid a salary, except that the written
27 trust instrument may provide for reimbursement for actual expenses
28 incurred on behalf of the fund and for compensation not to exceed
29 \$200 for any day or portion of a day spent at a meeting of the
30 trustees. Except as otherwise provided in this act, a trustee shall not
31 enter into any contract with the group or receive any moneys or
32 other compensation or thing of value whatsoever from the group for
33 services performed for or on behalf of the group.

34

35 6. (New section) a. A State college risk management group, or
36 any joint liability fund of the group, shall not begin functioning as a
37 means of providing coverage or protection for or among its
38 members until the group's bylaws have been filed with and
39 approved by the State Treasurer. The State Treasurer may
40 disapprove the bylaws only if the bylaws do not conform with the
41 provisions of this act. The State Treasurer shall set forth the
42 reasons for disapproval in writing. If the State Treasurer fails to
43 approve or disapprove the bylaws within 60 days following filing of
44 the bylaws in the State Treasurer's office, the bylaws shall be
45 deemed approved. The reasonable costs of the State Treasurer's
46 review of the bylaws shall be chargeable to the State colleges
47 seeking to establish the group.

1 b. A State college risk management group shall file an annual
2 report, on a form to be prescribed by the State Treasurer, and shall
3 include a financial statement of the group's assets and liabilities, the
4 claims paid during the preceding 12 months, current reserves,
5 incurred losses, and any other information that the State Treasurer
6 may require.

7 c. The State Treasurer shall have authority to examine the
8 books, records and affairs of any State college risk management
9 group or any of its liability funds at a time to be fixed by the State
10 Treasurer. The reasonable costs of any examination or review shall
11 be chargeable to the State college risk management group.

12 d. If at any time the State Treasurer determines that the State
13 college risk management group has experienced a deterioration in
14 its financial condition which adversely affects or will adversely
15 affect its ability to pay expected losses, the State Treasurer may:

16 (1) require an increase in the reserves of the group as required by
17 section 4 of this act; or

18 (2) require the purchase of excess insurance or reinsurance.

19 7. (New section) Funds for premiums required by the contract
20 between the governing body of the State college and the board of
21 trustees of the fund shall be appropriated and paid as set forth in the
22 contract in the same manner as appropriations are made for other
23 expenses of the State college.

24 8. Section 3 of P.L.2007, c.56 (C.52:18A-221) is amended to
25 read as follows.

26 3. The mission of the division shall be to implement a well-
27 coordinated strategy to identify and respond to the needs of the
28 various departments and agencies of State Government in this
29 regard. Specifically, the division shall:

30 a. Procure insurance coverage, if appropriate, for any or all of
31 the various departments and agencies of State Government, other
32 than State colleges that procure coverage through risk management
33 programs, joint liability funds, or joint insurance programs pursuant
34 to P.L. c. (C.) (pending before the Legislature as this bill)
35 and independent authorities and instrumentalities of the State,
36 including, as otherwise required by law or as appropriate, coverage
37 through self-insurance and use of third party administrators;

38 b. Assist the various departments and agencies of State
39 Government in developing sound plans of risk management,
40 including developing programs to protect physical assets, and
41 developing and implementing safety programs to mitigate both the
42 frequency and severity of accidental loss and by reviewing these
43 plans and programs from time to time;

44 c. Administer the processing of all claims for the various self-
45 administered and self-funded insurance programs of State agencies
46 and departments, with litigation support from the Department of

1 Law and Public Safety , except those claims processed by risk
2 management programs, joint liability funds, or joint insurance
3 programs established by State colleges pursuant to P.L. _____,
4 c. (C. _____) (pending before the Legislature as this bill);

5 d. Compile and distribute, on a monthly basis, accident
6 frequency reports to the Governor, the commissioner of each
7 principal department of State Government, and the Legislature.
8 These reports shall track each department's current accident rate
9 compared to historical trends and shall include summaries of any
10 protocols in place to reduce risk; and

11 e. Continue all of the previous functions and responsibilities of
12 the Bureau of Risk Management, in addition to those listed in this
13 section, and develop new strategies and programs, as appropriate.

14 (cf: P.L.2007, c.56, s.3)

15

16 9. This act shall take effect immediately.

17

18

19

STATEMENT

20

21 The bill authorizes two or more State colleges or universities to
22 form a State college risk management group and to participate in
23 joint liability funds, risk management programs, and related
24 services provided by the group, subject to certain regulatory
25 oversight by the State Treasurer. Currently, the Division of Risk
26 Management in the Department of the Treasury administers certain
27 insurance coverage programs for various agencies of State
28 government, including State colleges. This bill would modify that
29 authority in order to allow State colleges to form their own risk
30 management groups and joint liability funds to provide that
31 coverage.

32 The bill provides that the State college risk management group
33 shall have the authority to establish joint liability funds through the
34 contributions of its members and to jointly purchase insurance
35 under a master policy for participating members in the areas of
36 property damage, liability, and workers' compensation coverage. A
37 State college or university, upon a resolution of its board of
38 trustees, may elect to participate in a group.

39 The State college risk management group shall establish bylaws
40 to provide for, among other things: operation and governance of the
41 group; procedures for the collection of contributions and payments
42 from members; the maintenance of excess insurance or reinsurance
43 for each joint liability fund; and withdrawal from the group. The
44 bylaws of the group shall also provide for the selection of a board
45 of trustees which shall exercise governing power over the group.
46 The board is to consist of not less than three or more than 15
47 trustees, a majority of whom shall be members or employees of the
48 member colleges or universities.

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1 Under the bill's provisions, a State college risk management
2 group, or any joint liability fund of the group, shall not begin
3 functioning until its bylaws have been approved by the State
4 Treasurer. A group must file an annual report, including a financial
5 statement, with the State Treasurer. If at any time the State
6 Treasurer determines that the group has experienced a deterioration
7 in its financial condition which adversely affects its ability to pay
8 expected claims, the State Treasurer may require the group to either
9 increase its reserves or purchase additional excess insurance or
10 reinsurance.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2965
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: JULY 23, 2010

SUMMARY

Synopsis: Authorizes formation of State college risk management groups and joint liability funds.

Type of Impact: No impact, State General Fund.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	No impact	No impact	No impact

- The Office of Legislative Services estimates that this bill will most likely have no fiscal impact on the State General Fund. Current expenditures from the State for insurance related costs incurred by colleges and universities are reimbursed to the State by the college or university.

BILL DESCRIPTION

Assembly Bill No. 2965 of 2010 authorizes two or more State colleges or universities to form a State college risk management group and to participate in joint liability funds, risk management programs, and related services provided by the group, subject to certain regulatory oversight by the State Treasurer. Currently, the Division of Risk Management in the Department of the Treasury administers certain insurance coverage programs for various agencies of State government, including State colleges. This bill would modify that authority in order to allow State colleges to form their own risk management groups and joint liability funds to provide that coverage.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the enhanced ability of universities and colleges to form their own risk management groups will be cost neutral to the State General Fund. Currently, the Division of Risk Management in the Department of the Treasury acts as the insurance provider for State colleges and universities, except: Rutgers, the State University of New Jersey; the New Jersey Institute of Technology; and, the University of Medicine and Dentistry of New Jersey. Any costs incurred by the State in administering insurance claims for the State colleges and universities are reimbursed to the State by the colleges and universities. Thus, there should be no overall cost or savings attributed to shifting this function to the private management groups permitted pursuant to this legislation.

Section: Commerce, Labor and Industry

Analyst: Robin C. Ford
Associate Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 3358 and 2965

STATE OF NEW JERSEY

DATED: OCTOBER 18, 2010

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 3358 and 2965.

This Assembly Committee Substitute for Assembly Bill Nos. 3358 and 2965 authorizes two or more State colleges or universities to form a State college risk management group and to participate in joint liability funds, risk management programs, and related services provided by the group, subject to certain regulatory oversight by the Commissioner of Banking and Insurance. Currently, the Division of Risk Management in the Department of the Treasury administers certain insurance coverage programs for various agencies of State government, including State colleges. This substitute modifies that authority to allow State colleges to form their own risk management groups and joint liability funds to provide that coverage.

The substitute authorizes the State college risk management group to establish joint liability funds through the contributions of its members and to jointly purchase insurance under a master policy for participating members in the areas of property damage, liability, and workers' compensation coverage. A State college or university, upon a resolution of its board of trustees, may elect to participate in a group.

The substitute directs the State college risk management group to establish bylaws to provide for, among other things: operation and governance of the group; procedures for the collection of contributions and payments from members; the maintenance of excess insurance or reinsurance for each joint liability fund; and withdrawal from the group. The bylaws of the group shall also provide for the selection of a board of trustees which shall exercise governing power over the group. The board shall consist of not less than three or more than 15 trustees, a majority of whom shall be members or employees of the member colleges or universities.

Under the substitute's provisions, a State college risk management group, or any joint liability fund of the group, shall not begin functioning until its bylaws have been approved by the Commissioner of Banking and Insurance. The substitute requires a group to file an annual report, including a financial statement, with the commissioner. If at any time the commissioner determines that the group has

experienced a deterioration in its financial condition which adversely affects its ability to pay expected claims, the commissioner may require the group to either increase its reserves or purchase additional excess insurance or reinsurance.

As substituted and reported by the committee, this substitute is identical to Senate Bill No. S1998/2067 SCS as also reported by the committee.

FISCAL IMPACT:

The administration has not provided information on the fiscal impact of this substitute as required pursuant to the Fiscal Note Law. In the Legislative Fiscal Estimate on a similar bill, the Office of Legislative Services (OLS) estimated that the legislation will most likely have no fiscal impact on the State General Fund. Currently, the Division of Risk Management in the Department of the Treasury acts as the insurance provider for State colleges and universities, except: Rutgers, the State University of New Jersey; the New Jersey Institute of Technology; and, the University of Medicine and Dentistry of New Jersey. Any costs incurred by the State in administering insurance claims for the State colleges and universities are reimbursed to the State by the colleges and universities. Thus, OLS notes that there should be no overall cost or savings attributed to shifting this function to the risk management groups permitted under the substitute.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3358
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: OCTOBER 20, 2010

SUMMARY

Synopsis: Authorizes formation of State college risk management groups and joint liability funds.

Type of Impact: No impact, State General Fund

Agencies Affected: Department of Banking and Insurance

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	No impact	No impact	No impact

- The Office of Legislative Services estimates that this bill will most likely have no fiscal impact on the State General Fund. Current expenditures from the State for insurance related costs incurred by colleges and universities are reimbursed to the State by the college or university.

BILL DESCRIPTION

Assembly Bill No. 3358 of 2010 authorizes two or more State colleges or universities to form a State college risk management group and to participate in joint liability funds, risk management programs, and related services provided by the group, subject to certain regulatory oversight by the Commissioner of Banking and Insurance. Currently, the Division of Risk Management in the Department of the Treasury administers certain insurance coverage programs for various agencies of State government, including State colleges. This bill would modify that authority in order to allow State colleges to form their own risk management groups and joint liability funds to provide that coverage.

FISCAL ANALYSIS***EXECUTIVE BRANCH***

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the enhanced ability of universities and colleges to form their own risk management groups will be cost neutral to the State General Fund. Currently, the Division of Risk Management in the Department of the Treasury acts as the insurance provider for State colleges and universities, except: Rutgers, the State University of New Jersey; the New Jersey Institute of Technology; and the University of Medicine and Dentistry of New Jersey. Any costs incurred by the State in administering insurance claims for the State colleges and universities are reimbursed to the State by the colleges and universities. Thus, there should be no overall cost or savings attributed to shifting this function to the private management groups permitted pursuant to this legislation.

Section: Commerce, Labor and Industry

*Analyst: Thomas K. Musick
Section Chief*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).