

**SENATE BILL NO. 151**

January 27, 1999, Introduced by Senators SIKKEMA, GOUGEON, BULLARD, GOSCHKA, BENNETT, MC COTTER, HAMMERSTROM, MC MANUS, STEIL, NORTH and SHUGARS and referred to the Committee on Health Policy.

A bill to amend 1951 PA 35, entitled

"An act to authorize intergovernmental contracts between municipal corporations; to authorize any municipal corporation to contract with any person or any municipal corporation to furnish any lawful municipal service to property outside the corporate limits of the first municipal corporation for a consideration; to prescribe certain penalties; to authorize contracts between municipal corporations and with certain nonprofit public transportation corporations to form group self-insurance pools; and to prescribe conditions for the performance of those contracts,"

by amending sections 5, 7, and 7a (MCL 124.5, 124.7, and 124.7a), sections 5 and 7 as amended and section 7a as added by 1988 PA 36.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 5. (1) Notwithstanding any other provision of law to  
2 the contrary, any 2 or more municipal corporations, by intergov-  
3 ernmental contract, may form a group self-insurance pool to  
4 provide for joint or cooperative action relative to their  
5 financial and administrative resources for the purpose of

1 providing to the participating municipal corporations risk  
2 management and coverage for pool members and employees of pool  
3 members, for acts or omissions arising out of the scope of their  
4 employment, including any or all of the following:

5 (a) Casualty insurance, including general and professional  
6 liability coverage.

7 (b) Property insurance, including marine insurance and  
8 inland navigation and transportation insurance coverage.

9 (c) Automobile insurance, including motor vehicle liability  
10 insurance coverage and security for motor vehicles owned or oper-  
11 ated, as required by section 3101 of the insurance code of 1956,  
12 ~~Act No. 218 of the Public Acts of 1956, as amended, being sec-~~  
13 ~~tion 500.3101 of the Michigan Compiled Laws 1956 PA 218, MCL~~  
14 500.3101, and protection against other liability and loss associ-  
15 ated with the ownership of motor vehicles.

16 (d) Surety and fidelity insurance coverage.

17 (e) Umbrella and excess insurance coverages.

18 (F) HOSPITAL, MEDICAL, SURGICAL, OR DENTAL COVERAGE.

19 ~~-(2) A group self-insurance pool may not provide for hospi-~~  
20 ~~tal, medical, surgical, or dental benefits to the employees of~~  
21 ~~the member municipalities in the pool except when such benefits~~  
22 ~~arise from the obligations and responsibilities of the pool in~~  
23 ~~providing automobile insurance coverage, including motor vehicle~~  
24 ~~liability insurance coverage and security for motor vehicles~~  
25 ~~owned or operated, as required by section 3101 of the insurance~~  
26 ~~code of 1956, Act No. 218 of the Public Acts of 1956, as amended,~~

~~1 and protection against other liability and loss associated with  
2 the ownership of motor vehicles.~~

3       (2) ~~(3)~~ A group self-insurance pool may assume, cede, and  
4 sell risk for coverages set forth in subsection (1). If a group  
5 self-insurance pool obtains reinsurance, the reinsurance contract  
6 shall be made available to the commissioner upon request. If the  
7 reinsurance contract is not available to the group self-insurance  
8 pool, the group self-insurance pool shall provide ~~to~~ the com-  
9 missioner ~~such~~ WITH written documentation of coverage as is  
10 requested by the commissioner.

11       (3) ~~(4)~~ A group self-insurance pool, for the purposes of  
12 carrying on the business of the group self-insurance pool whether  
13 or not a body corporate, shall have the power to sue and be sued;  
14 to make contracts; to hold and dispose of real and personal prop-  
15 erty; and to borrow money, contract debts, and pledge assets in  
16 the name of the group self-insurance pool.

17       (4) ~~(5)~~ In addition to any other powers granted by this  
18 act, the power to enter into intergovernmental contracts under  
19 this section specifically includes the power to establish the  
20 pool as a separate legal or administrative entity for purposes of  
21 effectuating group self-insurance pool agreements.

22       (5) ~~(6)~~ The legislature hereby finds and determines that  
23 insurance protection is essential to the proper functioning of  
24 municipal corporations; that the resources of municipal corpora-  
25 tions are burdened by the securing of ~~such~~ INSURANCE protection  
26 through standards carriers; that proper risk management requires  
27 ~~the~~ spreading ~~of~~ risk ~~so as~~ to minimize fluctuation in

1 insurance needs; and that, therefore, all contributions of  
2 financial and administrative resources made by a municipal corpo-  
3 ration pursuant to an intergovernmental contract ~~as~~ authorized  
4 under this act are made for a public and governmental purpose,  
5 and that ~~such~~ THOSE contributions benefit each contributing  
6 municipal corporation.

7 (6) ~~(7)~~ Two or more municipal corporations shall not form  
8 a group self-insurance pool to provide the coverages described in  
9 subsection (1) other than pursuant to sections 5 to 12b.

10 Sec. 7. Any intergovernmental contract entered into under  
11 section 5 for the purpose of establishing a group self-insurance  
12 pool shall provide ALL OF THE FOLLOWING:

13 (a) A financial plan setting forth, in general terms, ALL OF  
14 THE FOLLOWING:

15 (i) The insurance coverages to be offered by the group  
16 self-insurance pool, applicable deductible levels, and the maxi-  
17 mum level of claims ~~which~~ THAT the pool will self-insure.

18 (ii) Subject to section 7a, the amount of cash reserves to  
19 be set aside for the payment of claims.

20 (iii) The amount of insurance to be purchased by the pool to  
21 provide coverage over and above the claims ~~which~~ THAT are not  
22 to be satisfied directly from the pool's resources.

23 (iv) Subject to section 7a, the amount of aggregate excess  
24 insurance coverage to be maintained or the amount of the deposit  
25 of unimpaired surplus to be maintained with the state treasurer,  
26 which aggregate excess insurance or deposit shall be used in the  
27 event that the group self-insurance pool's resources are

1 exhausted in a given fiscal period. ~~The~~ EXCEPT AS OTHERWISE  
2 PROVIDED IN SUBPARAGRAPH (v), THE aggregate excess insurance  
3 COVERAGE or deposit OF UNIMPAIRED SURPLUS, or combination of  
4 aggregate excess insurance COVERAGE and deposit OF UNIMPAIRED  
5 SURPLUS shall be ~~, at a minimum, in the amount of~~ NOT LESS THAN  
6 \$5,000,000.00 unless the commissioner determines a lesser amount  
7 of aggregate excess insurance COVERAGE would be adequate.  
8 HOWEVER, A GROUP SELF-INSURANCE POOL PROVIDING COVERAGE UNDER  
9 SECTION 5(1)(F) SHALL HAVE AGGREGATE EXCESS INSURANCE COVERAGE OR  
10 A DEPOSIT OF UNIMPAIRED SURPLUS WITH THE STATE TREASURER, OR A  
11 COMBINATION OF AGGREGATE EXCESS INSURANCE COVERAGE AND DEPOSIT OF  
12 UNIMPAIRED SURPLUS WITH THE STATE TREASURER, OF NOT LESS THAN  
13 \$7,500,000.00.

14 (b) A ~~plan of~~ management ~~which~~ PLAN THAT provides for  
15 all of the following:

16 (i) The means of establishing the governing authority of the  
17 pool.

18 (ii) The responsibility of the governing authority with  
19 regard to fixing contributions to the pool, maintaining reserves,  
20 levying and collecting assessments for deficiencies, disposing of  
21 surpluses, and administering the pool in the event of termination  
22 or insolvency.

23 (iii) The basis upon which new members may be admitted to,  
24 and existing members may leave, the pool.

25 (iv) The identification of funds and reserves by exposure  
26 areas.

1 (v) Other provisions necessary or desirable for the  
2 operation of the pool.

3 (c) For election by pool members of a governing authority,  
4 which shall be a board of directors for the pool, a majority of  
5 whom shall be elected or appointed officers of pool members.

6 Sec. 7a. (1) ~~When~~ IF 2 or more municipal corporations  
7 have formed a group self-insurance pool by an intergovernmental  
8 contract pursuant to section 5, the group self-insurance pool  
9 shall immediately submit a copy of the intergovernmental contract  
10 to the commissioner of insurance. The commissioner of insurance  
11 shall review it for compliance with this act.

12 (2) A copy of each coverage document form issued by the pool  
13 shall be filed with the commissioner of insurance.

14 (3) Each group self-insurance pool shall maintain aggregate  
15 excess insurance COVERAGE or a deposit OF UNIMPAIRED SURPLUS with  
16 the state treasurer, ~~of unimpaired surplus~~ which aggregate  
17 excess insurance COVERAGE or deposit OF UNIMPAIRED SURPLUS shall  
18 be used in the event that the pool's resources are exhausted in a  
19 given fiscal period. ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (4),  
20 THE aggregate excess insurance COVERAGE or deposit OF UNIMPAIRED  
21 SURPLUS, or combination of aggregate excess insurance and deposit  
22 OF UNIMPAIRED SURPLUS shall be ~~, at a minimum, in the amount of~~  
23 NOT LESS THAN \$5,000,000.00 unless the commissioner determines a  
24 lesser amount of aggregate excess insurance would be adequate. A  
25 copy of the aggregate excess insurance contract obtained by a  
26 group self-insurance pool pursuant to this section shall be filed

1 with the commissioner of insurance who shall review it for  
2 compliance with this act.

3 (4) A GROUP SELF-INSURANCE POOL PROVIDING COVERAGE UNDER  
4 SECTION 5(1)(F) SHALL HAVE AGGREGATE EXCESS INSURANCE COVERAGE OR  
5 A DEPOSIT OF UNIMPAIRED SURPLUS WITH THE STATE TREASURER, OR A  
6 COMBINATION OF AGGREGATE EXCESS INSURANCE COVERAGE AND DEPOSIT OF  
7 UNIMPAIRED SURPLUS WITH THE STATE TREASURER, OF NOT LESS THAN  
8 \$7,500,000.00.

9 (5) ~~(4)~~ A group self-insurance pool shall set aside cash  
10 reserves that are adequate for the payment of claims.