

Approved 2-3-87  
Date

MINUTES OF THE House JOINT COMMITTEE ON Education and Insurance

The meeting was called to order by Rep. Denise Apt at  
Chairperson

3:30 ~~XX~~ a.m./p.m. on January 28, 1987 in room 313-S of the Capitol.

All members were present except:

Rep. Littlejohn, excused  
Rep. R. D. Miller, excused

Committee staff present:

Ben Barrett, Chris Courtwright, Research Department  
Bill Edds, Avis Swartzman, Revisor's Office  
Thelma Canaday, Deanna Willard, Committee Secretaries

Conferees appearing before the committee:

Bill Curtis, Ks. Assoc. of School Boards  
Larry Magill, Jr., Independent Insurance Agents of Ks.

The meeting was called to order by Chairman Apt.

Hearing on: HB 2109 - School districts, area vocational-technical schools, community colleges, pooling arrangements

Mr. Bill Curtis, KASB, explained why they have an interest in the insurance arena. (See Att. 1.)

He presented a memorandum stating the advantages and disadvantages of existing legislation and the conclusion that an independent statute for school district insurance pools under chapter 72 should be enacted. (See Att. 2.)

He stated that the main purpose is to provide good coverage for the lowest dollar. Other points which were covered in response to questioning were:

1. There are only two pools of which he is aware in operation under the authority of chapter 44--attorneys pools. There appear to be too many restrictions to form pools under current statutes. They are seeking exemption from regulations--though they will often be abiding by those regulations.
2. Though there would be nothing to prevent school boards from selling life insurance, that is not in the plan. Their intent is to provide for those types of coverage for which the whole district would need a contract.
3. They would want to be the primary carrier; however, excess insurance would be purchased (reinsurance.) It would be a matter of collecting the premiums and agreeing to retain a certain amount of the risk. If their funds were used up, the excess carrier would kick in. In today's hard market, the excess carrier can dictate to the primary what he will assume.
4. They believe they can run a property/casualty "company" more economically than can insurance companies as they would be dealing only with Kansas school districts, which are good risks. The districts are now being rated on a nationwide basis. Kansas school districts have never had a loss ratio exceeding 35%.

CONTINUATION SHEET

JOINT  
MINUTES OF THE House COMMITTEE ON Education and Insurance  
room 313-S, Statehouse, at 3:30 XX a.m./p.m. on January 28, 1987

5. Contracts are written for one year.

6. Two of the Kansas school districts are not members of the KASB. They would not be eligible for this plan.

7. Though there are no restrictions in the amount of reserves required, the KASB would seek to run a prudent operation. If the pool and excess coverages are depleted, the school district has mill levy power to pay for uncovered losses. The insurance industry uses some of the premium money to gain investment income which the insured never sees. Such money accrued in a pool would belong to the insured.

8. A risk management company in Kansas City will be used to provide them with insurance expertise. School districts look mainly at the premium paid; they'll have to be competitive from both quality and pricing standpoints.

9. A captive insurance company could be formed; the main drawback would be the capitalization requirements. He will provide in written form other drawbacks of being subject to current insurance company regulations.

10. School districts in Kansas could self-insure if they wished; however, none has sufficient premium dollars. As insurance is a matter of mathematics, it would become an exercise in rolling the dice. If there are enough participants, each paying the proper amount, over the long haul, a profitable situation would result. The difficulty with liability insurance is that it is not predictable.

11. He expects that about half of those who say they are interested would actually sign up. The total premium volume in worker's compensation insurance paid by Kansas school districts is \$5.5 million; they anticipate a total premium volume of between \$1.5 and \$2 million the first year.

12. Though feasibility studies have been done, they are not mathematical. Specific savings could not be predicted until it is known who is in the pool. Premiums are experience rated for each individual based on the number of claims in the past few years and the amount of the payroll.

Mr. Larry Magill, Independent Insurance Agents of Ks., expressed opposition to the bill without some amendments which would allow for some Insurance Department regulatory control. They classify group self-insurance as assessable mutual or reciprocal insurance companies. (See Att. 3.)

He offered two letters, one from Kansas Public and Interlocal Risk Services, the other from Risk & Appraisal Management, and suggested that group deals would be sold to unsophisticated buyers who may not know what they are getting into. (Att. 4 and Att. 5.)

He said that individual companies who are self-insured do not pay a premium tax, though such companies are subject to an assessment to pay for workman's compensation administrative costs.

He offered another handout that listed questions he felt should be asked regarding public entity pools. (Att. 6.)

Chairman Sprague said that further hearings on the bill would be scheduled in the House Insurance Committee and that a report would be made back to the Education Committee.

The meeting was adjourned at 4:25 p.m.





KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS



5401 S. W. 7th Avenue Topeka, Kansas 66606  
913-273-3600

Testimony Before a Joint Meeting  
of the  
House Education and House Insurance Committees  
on H. B. 2109

by

Bill Curtis, Assistant Executive Director  
Kansas Association of School Boards

January 28, 1987

Madam Chairman and Mister Chairman, members of the committees, the Kansas Association of School Boards appreciates the opportunity to testify today on the concept of self-funded pooling agreements for school districts as an alternative to purchasing formal insurance contracts. The statutory authority sought by the Kansas Association of School Boards can be found in H. B. 2109. That bill was introduced at our request by the House Education Committee.

First of all, why does KASB have an interest in the insurance arena? Like everyone else, school districts suffered through the insurance crisis of the last two years. Premiums went up dramatically and policies were canceled. Telephone calls into our office were numerous and emotional. School board members and administrators urged the association to look into the problem and try to find a solution. In discussions with other associations in Kansas and school boards associations around the country, it quickly became apparent that self-funded pools were a viable solution. In our opinion, there are two major advantages to self-funded pools. First, it permits the insured entity, in this case school districts, to be rated on their own experience. Second, it permits the insured entity to maintain some control over the provisions of the contract and subsequently, the premium. However, if self-funded pools are required to meet all the insurance regulations then there is a danger that the pool will simply become another insurance company. Consequently, H. B. 2109 seeks to place these pools outside the insurance laws of Kansas. Of course, the key to the success of any pool is to convince the potential participants to become a part of the pool. This legislation is permissive. It does not require school districts to join.

Why is it necessary to have a new piece of legislation? Is there not statutory authority now for these self-funded pools to form? The answer is a mix of yes and no. Included with this testimony is a memorandum prepared by KASB which examines the existing laws. As you can see, the conclusion of this memorandum is to seek new legislation under Chapter 72.

House Insurance Committee  
Jan. 28, 1987  
Att. 1

Where is KASB at this point? A separate corporation has been established to offer workers' compensation coverage to school districts this year. It is anticipated that the pool will be in operation no later than July 1, 1987. The actual date will depend upon the success of H. B. 2109. Planning has proceeded to this point under the provision of K. S. A. 44-581 et seq. The association would rather not operate under the statute for reasons outlined in the memorandum. However, it can be done. H. B. 2109 also expands the opportunity for self-funded pools to be formed for other lines of insurance, such as property and casualty and errors and omissions. KASB intends to eventually offer those other lines of coverage. KASB also intends for these pools to be long term operations. It seems to us that it is foolish to look at self-funded pools as a short term solution to the insurance problems faced by school districts.

Is there really a problem for school districts? Certainly you have received more information than you ever wanted documenting the problem. But the following information should summarize the problems faced by school districts. In <sup>1984</sup>~~1987~~, the total insurance premiums paid by school districts averaged about .4% of the general fund budgets. That figure is rapidly approaching a three fold increase. When you consider that total general fund budgets for school districts in Kansas nearly equal the state's general fund budget, \$1.6 billion, we are talking substantial sums.

Madam Chairman, Mister Chairman, we appreciate your time and attention. We would urge both committees to consider H. B. 2109 favorably.

M E M O R A N D U M

TO: KASB Staff  
DATE: December 8, 1986  
RE: Special Legislation on Self-Funded Pools

The objective is to give school districts authority, by statute, to enter into agreements to provide their own self insurance plan by the creation of self-funded insurance pools. From reviewing the K.S.A. 44-581, et seq., (Group Funded Workers' Compensation Pools) and 12-2901, et seq., (Interlocal Cooperation), each has its own individual problem with incorporating a provision expressly meeting the insurance needs of school districts. One of the options which should be carefully considered is the enactment of a statute under chapter 72 giving school boards express power to enter into school district insurance pools.

K.S.A. 44-581, et seq., Group-funded Workers' Compensation Pools. The goal is to provide school districts with a self-funded pool, which would not be subject to the insurance regulations of chapter 40. K.S.A. 44-581 states that any group-funded workers' compensation pool shall not be deemed to be insurance or insurance companies and shall not be subject to the provisions of chapter 40, i.e., insurance regulations. K.S.A. 44-581, et seq., allows employers, who qualify under the statute, to set up a group-funded workers' compensation pool. This statute speaks only to group-funded workers' compensation pools, and therefore, does not allow employers to provide for their other insurance needs. Initially, K.S.A. 44-581, et seq., could work in providing group-funded workers' compensation to school districts. However, the consequences of staying within chapter 44 would be detrimental to future plans to expand insurance services in other areas, since chapter 44 pertains only to workers' compensation.

The question of who may participate in a group-funded workers' compensation pool, could be argued both ways as to whether or not school districts are included under K.S.A. 44-581. The provision in question states, "who are members of the same

bona fide trade or professional association," and "who are engaged in the same or similar type of business."

On its face, it would seem that school districts are in the same trade or profession, which is the education of children. However, in all practicalities this provision does not include school districts. Instead, the statute contemplates such trade or professional associations as general contractors or sub-contractors engaged to do specific kinds of work, such as construction.

Other than the prior provision, all the other requirements of K.S.A. 44-581 can be met. The statute requires at least five or more employers regardless of domicile to form the insurance pool. This requirement could be met since there are 304 school districts in the state of Kansas, and the probabilities are good that there will be at least five districts who would want to form a pool. K.S.A. 44-581 requires that each member of the pool be in existence for not less than five years. There should be no problem in meeting this requirement since unification of school districts was in 1965.

The initial application for certification of the workers' compensation pool K.S.A. 44-582 is applicable and could be complied with. This application for certification of the pool needs to be made to the Commissioner of Insurance not less than 60 days prior to the proposed inception date of the pool. However, K.S.A. 44-582(f), is inapplicable to school districts. Section (f) provides for a statement showing the combined net worth of all members to total not less than \$1,000,000. The question is, how does one measure the net worth of a school district? School district assets and property fair market value cannot be measured. It would be difficult to place a value on school district property. Also, school districts under provision K.S.A. 44-582(e), have to include a financial statement. Including a financial statement has no consequence whether a school district is able to join in a workers' compensation pool, since school districts do not go bankrupt.

K.S.A. 44-583 to 44-590 are provisions which are necessary and practical to operating a self-funded pool. These statutes provide for service of process, certification, renewals and



expirations, premiums, expenses of administration, paying taxes, new members and termination. Approval and regulations of these provisions are under the control of the Insurance Commissioner. The Commissioner has the responsibility to make sure that the pool is solvent. Consequently, the function of the commission should not come into conflict with KASB's goals, since KASB recognizes that there is a need for regulation, and it is a bona fide requirement that the pool is financially solvent.

Last, K.S.A. 44-591 stipulates the duties of the board of trustees. The statute provides for the number of trustees and who can serve on the board of trustees. K.S.A. 44-591(a) allows the board of trustees to designate an administrator to administer the financial affairs of the pool. Therefore, section (a) would allow KASB to be the administrator. Also under section (a), KASB as administrator would have to furnish a fidelity bond to protect against any misappropriation or misuse of any money or securities. The amount of the bond is to be determined by the Insurance Commissioner. Further, under K.S.A. 44-591(f), the board of trustees may delegate authority of specific functions to the administrator of the pool.

The purpose of the Interlocal Cooperation Act, K.S.A. 12-1901, et seq., does not go against the development of a school district self-funded insurance pool. (K.S.A. 12-2901) The statute allows any public agency, such as a school board, to contract to provide needed services with either another public agency or a private agency. KASB as an association is classified under the act as a private agency (K.S.A. 12-2904 (c)).

Further, the essence of interlocal agreements is to provide mutual advantage to all parties involved. Setting up self-funded insurance pools under the direction of KASB could be fashioned specifically to meet the needs of school boards. Also, such pooling would be economically advantageous to the school districts; the benefits of setting up an insurance pool would provide member school districts the lowest and most efficient insurance plan possible (K.S.A. 12-2901). Unlike 44-581, et seq., bringing self-funded insurance pools under chapter 12 would allow for an expansion of insurance plans and options which could be provided to school districts.

If KASB decides that it would be feasible to bring insurance pools under chapter 12, a specific provision could be added to K.S.A. 12-2904(a). Under K.S.A. 12-2904(a), a school board has the power to contract specifically stated services and including, but not limited to, other services which are not specifically defined. A school board could contract to enter into a self-funded insurance pool without specific inclusion enabling them to do so. For practical purposes, it may be in the interest of all concerned that a special inclusion to self-funding insurance pools be added under K.S.A. 12-2904(a). By specifically enabling school districts to contract to self-funded insurance pools, this would take away the statutory uncertainty and would bring legitimacy to the insurance pool concept.

The statute provides for the necessity of the school board to adopt the agreement by resolution (K.S.A. 12-2904(b)). Further, the statute includes the provisions which are to be mandatory in the contract entered into by a municipality (K.S.A. 12-2904(c)(e)). However, these provisions may need to be tailored to a school district insurance pool fund.

Under K.S.A. 12-2904(f), the Attorney General, as a condition precedent before the contract can be enforced, must approve the agreement. The Attorney General may find that insurance policy does not fall within the statutory intent of this Act, if the statute is not changed to include self-funded insurance pools by school districts. The way to avoid this is to have insurance pooling included under K.S.A. 12-2904(a).

Besides the Attorney General reviewing the agreement, under K.S.A. 12-2906, the agreement (contract) must be reviewed by the state officer or agency who has jurisdiction in the area in which interlocal agreements pertain. Therefore, insurance pooling agreements would come under the jurisdiction of the Insurance Commissioner. The Commissioner must agree to the insurance pool before it can be enforced. This provision, K.S.A. 12-2906, would bring the self-funded insurance pool under the complete control and direction of the Insurance Commissioner. Unlike K.S.A. 44-581, et seq., which does not require workers' compensation pool to be regulated by the guidelines of chapter 40, this is not true under this statute.

There is no language in this statute which would exempt a school district insurance pool from the provisions of chapter 40. This is one of the major reasons against setting up an insurance pool under the Interlocal Cooperation Act.

Presently, chapter 72 provides no feasible solution for self-funded insurance pools. The interlocal cooperation agreement, K.S.A. 72-8230, only pertains to school districts who provide, by an agreement, joint services for special education or vocational education. Therefore, there is no need to further pursue incorporation of self-funded insurance pools under this statute. To amend this statute to include insurance pools would only create confusion since insurance pooling is not the intent of the statute. Therefore, an independent statute for school districts insurance pools under chapter 72 would have to be enacted.

Testimony on HB ----  
Before the Joint House Education & Insurance Committee Hearing  
on January 28, 1987

By: Larry W. Magill, Jr., Executive Vice President  
Independent Insurance Agents of Kansas

The Independent Insurance Agents of Kansas has 620 member agencies across the state employing approximately 2,500 people, the majority licensed as insurance agents. We are independent insurance agents because we are free to represent a number of different insurance companies offering our professional advice, the best product and the most competitive cost we can find in the open marketplace.

Our association is opposed to HB ---- without substantial amendments that would provide for adequate Insurance Department regulatory control. We are not opposed to self-insurance, but we are opposed to the complete exemption from Insurance Department regulatory control over group self-insurance schemes which are, in effect, assessable mutual or reciprocal insurance companies.

It is not surprising that there is a great deal of interest today in pools or group self-insurance or risk retention groups or captive insurance companies or any of the other alternative insurance mechanisms. We have been through one of the worst insurance industry cycles in history with seven years of "soft" pricing (steadily decreasing costs) followed by an insurance market "crash" in 1984 and drastically increased costs since then. We sympathize, as agents, with the buyers that have been hit with these dramatic cost increases.

However, the issue is much broader than just what the school boards may want to do to deal with increased costs of insurance and coverage

availability problems. The issue involves potentially all public entities in this state; cities, counties, townships, rural water districts, community colleges, etc. There should be one statute, in our opinion, dealing with all of these different types of public entities under the insurance code in chapter 40.

Regardless of the terminology used, these pools amount to assessable mutual or reciprocal insurance companies. Insurance is simply a mechanism for spreading the losses of a few among many. In other words, premiums are collected from a large number of insureds with a homogeneous exposure to loss in order to pay for the losses experienced by a few members of that group. Whether the product is offered by an insurance company, a pool, a captive insurance company or a risk retention group, the product is the same, insurance. And the company underwriting the risk is an insurance company.

In our view, the issue is also much broader than a single association that wants to offer a group self-insurance plan to its members. There already are a number of outside providers operating within Kansas in recent months and there will be many more providers attempt to enter the state in the near future. We are convinced that public entities will assume that these pools have met certain minimum Insurance Department standards and that the Department will have the same control over them as any other insurance company. Attached to my testimony is information on two public entity pools that are currently operating in Kansas or being formed where neither the Insurance Department nor the affected associations appear to have much information about their operations.

The way we interpret HB ----, other nonprofit associations

connected to the education field could also offer pools, including the Kansas National Education Association and the United School Administrators of Kansas, to name just two.

The Kansas legislature's recent history with the disastrous results of the Health Care Stabilization Fund's excess medical malpractice insurance gives a vivid example of what can happen when the claims experience of a group self-insurance pool goes through the roof. The HCSF amounts to a state-run insurance company that at one point in time had accumulated nearly \$40 million in unfunded claims liabilities before the legislature recognized the validity of insurance industry claims reserving practices and placed the fund on an accrual basis for charging premiums (surcharges). The claims potential from school board public official liability and their possible liability from asbestos claims are just two areas that are potentially as severe as a medical malpractice exposure.

Aside from the authority granted under the Kansas Tort Claims Act to public entities to pool their general liability exposures, the only Kansas statutory authority for group self-insurance is found in the Workers' Compensation Act, 1985 supp. K.S.A. 44-581 to K.S.A.44-592. The provisions of this law clearly demonstrate the legislature's intent to treat group workers' compensation self-insurance funds as reciprocal insurance companies in many respects and would provide an excellent framework to draft legislation allowing pooling for all types of insurance coverage by public entities.

Even the Federal Risk Retention Act amendments of 1986 signed into law in October by President Reagan recognized that these pools are insurance companies and require that they meet all the insurance company

laws and regulations or at least one state and that they be subject to Insurance Department jurisdiction in every state where they operate. The Federal Risk Retention Act is limited to general liability coverages only and the Kansas Insurance Department has already introduced legislation that will allow it to regulate, to the maximum extent allowed under the federal law, risk retention groups operating in Kansas.

We firmly believe that the public interest of the Kansas taxpayers demands that the legislature carefully review the safeguards they will impose on group self-insurance pools formed by public entities. The outcome of these pools could drastically affect the public entity's need for state general revenue funds and local tax rates.

We are not asking that the legislature make these pools subject to the Kansas Guaranty Fund Act for protection against insolvency. This means neither the return of premiums paid in nor the payment of claims against these public entities will be protected. One city outside of Tucson, Arizona, was on the verge of filing for bankruptcy because of a liability claim involving a police shootout approximately a year ago. They ultimately compromised the judgement with the plaintiff's and avoided bankruptcy, but the resulting tax burden on the city's citizens was enormous.

We are not proposing that the legislature treat these pools the same as they would treat the formation of a new insurance company. That would be too harsh and pools would never be established. We are suggesting that some adequate regulatory oversight by the Kansas Insurance Department be put in place that will, to the greatest extent practical, guarantee against insolvency of these pools and protect the

citizens of Kansas, including employees of the public entities from abuse.

The following would be our minimum recommendations: 1) Filing of annual certified audits by the pool. 2) Filing of rates and insurance coverage forms with the Kansas Insurance Department. 3) Filing of information on the specific or stop-loss excess insurance and aggregate excess insurance purchased by the pool subject to Department approval as to adequacy. 4) Subject the pools to the Unfair Trade Practices and Unfair Claims Practices Act in the current insurance code. 5) Require the pool to file their plan for providing loss control and safety engineering services with the Department. This is particularly important since these activities protect workers from obvious dangers as well as members of the general public. 6) Payment of the Kansas domestic premium tax of 1%, or, at least, a conscious decision by the Kansas legislature to forego this income currently being received. 7) A requirement that the pools participate in the workers' compensation and auto assigned risk plans if these coverages are provided by the pools. This would provide a "level playing field" among all "insurance companies." 8) A requirement for an actuarial review of claims reserving practices which would be filed with the Insurance Department annually. 9) A requirement that the agent's licensing statutes apply since coverage will be sold by these pools. 10) A prohibition against withholding dividends or other refunds due a public entity that wishes to withdraw from the plan to avoid "locking in" public entities to the pool. 11) In lieu of the minimum capitalization requirement, at least some review by the Insurance Department of whether the plan has a large enough premium base coupled with adequate excess insurance to reasonably



expect to assume the risk of loss by line of coverage.

We are not asking that the public entity pools be treated the same as insurance companies, but we firmly believe that some form of common Insurance Department regulatory control and oversight should be exercised if for no other reason than for the benefit of all of us taxpayers that will end up picking up the tab if they fail. Keep in mind that the two basic goals of insurance regulation is insolvency protection and protection of the consumer including injured parties and workers and that we are essentially dealing with the formation of new insurance companies when we consider group self-insurance pools.

We would be happy to work with the committees in any way possible to draft amendments to HB ---- that will meet these goals. Thank you very much for your consideration.

# KANSAS PUBLIC AND INTERLOCAL RISK SERVICES

P. O. BOX 1364  
TOPEKA, KANSAS 66601  
(913) 357-8212

December 5, 1986

Dear Public Official:

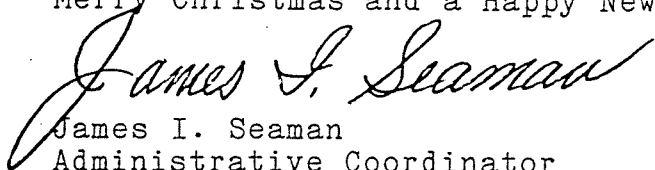
The skyrocketing cost of liability insurance has hurt the budgets of all public bodies. Kansas public bodies have consistently had low loss ratios as a group. Kansas should not have to subsidize other states that do not have low loss ratios. Unfortunately when Kansas public bodies purchase traditional insurance, Kansas does subsidize other states.

Kansas Public and Interlocal Risk Services has been formed, under Kansas Statutes, to offer Kansas public bodies the opportunity to control insurance costs to a greater degree than ever before, and to do it for lower cost.

As you read the enclosed materials describing the program, consider returning the nomination form. I hope you will be interested in participating on the board.

Applications for coverage will be following shortly. Please fill them out as soon as possible so we can provide quotations, especially if you are a January renewal.

Merry Christmas and a Happy New Year.

  
James I. Seaman  
Administrative Coordinator

House Insurance Committee  
Jan. 28, 1987  
Att. 4

# KANSAS PUBLIC AND INTERLOCAL RISK SERVICES

## FACT SHEET

**Q. Who owns or controls KPAIRS?**

**A. KPAIRS is owned by the cities, counties and schools that are members. It is controlled by a Board of up to seven (7) persons who are nominated by cities, counties and schools in Kansas. It is a local government risk pool established by Intergovernmental Contracts under KSA 75-6111.**

**Q. Most of the insurance industry is switching to "claims made" coverage. What type of coverage is offered by KPAIRS?**

**A. KPAIRS will offer "occurrence" coverage, and in addition will offer coverage for civil rights and pollution. Further, all board members, commissions, employees, and teachers of the member are covered.**

**Q. Will the money held in reserve stay in Kansas, and what happens to the interest?**

**A. The money held in reserve for KPAIRS will be kept in a Kansas bank and all the interest belongs to KPAIRS and its members.**

**Q. Some insurance agents are helpful at the local level. May local agents participate?**

**A. A city, county or school may choose to work with a local insurance agent or work directly with KPAIRS.**

**Q. Who will service any of the claims a member might have?**

**A. It is anticipated that the board will contract with American Risk Pooling Consultants, Inc., who, in conjunction with Constitution State Service Company (a wholly-owned subsidiary of The Travelers) will handle all claims. Local claims adjusters will be used, as with any insurance company.**

**Q. Who will be reviewing the amounts set for claims reserves and the overall financial condition of KPAIRS?**

**A. A major actuarial firm will be contracted with to serve as actuaries for the Pool and the national firm of Peat, Marwick, Mitchell & Co. will conduct the annual audit and prepare the annual financial statement.**

**Q. How can we participate in KPAIRS?**

**A. First, you may be interested in serving on the board of directors. If so, please fill out the nomination form and return it to KPAIRS. Second, application forms will be mailed soon; return the form to KPAIRS for a quotation.**

**Q. What are the major advantages of the KPAIRS program?**

**A. KPAIRS will offer coverages that many insurance companies no longer offer. In addition, there will be a more reasonable pricing. There is no profit for stockholders, it all belongs to the cities, counties and schools.**

**Q. How do we find out more about KPAIRS?**

**A. Contact:**

**KPAIRS  
c/o Jim Seaman  
P. O. Box 1364  
Topeka, KS 66601  
Telephone: (913) 357-8212**

# KANSAS PUBLIC AND INTERLOCAL RISK SERVICES

## COVERAGES AVAILABLE

### Broad Form Liability (Occurrence Basis)

- EMT
- Assault and Battery
- Civil Rights
- Land Fill
- Weed Control and Pest Control Pollution
- Volunteer Fire Department
- Broad Form Contractual
- All Employees, Commissions and Volunteers
- Up to \$2,000,000 in Limits

### Police Professional Coverage (Occurrence Basis)

- Jails
- Civil Rights
- Up to \$1,000,000 Limits

### Public Officials Errors & Omissions (Occurrence Basis)

- Up to \$1,000,000 Limits

### Schools

- Athletic Participants
- School Board Errors & Omissions
- Up to \$1,000,000 Limits

### Automobile Liability and Physical Damage

- Standard Forms
- Up to \$1,000,000 Limits Liability
- Up to \$500,000 Limits Physical Damage (any one location)

**KANSAS PUBLIC AND INTERLOCAL RISK SERVICES**  
**AT-LARGE AND ALTERNATE BOARD MEMBERS**  
**NOMINATION FORM**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

TELEPHONE: ( ) \_\_\_\_\_ YEARS IN CURRENT POSITION: \_\_\_\_\_

TITLE: \_\_\_\_\_

ELECTED \_\_\_\_\_ OR APPOINTED \_\_\_\_\_

POPULATION: IF CITY OR COUNTY, NUMBER OF RESIDENTS: \_\_\_\_\_

IF SCHOOL, NUMBER OF STUDENTS \_\_\_\_\_

HOMETOWN NEWSPAPER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

IS THE NOMINEE OR ANY MEMBER OF HIS OR HER FAMILY AN AGENT OR EMPLOYEE OF AN  
INSURANCE COMPANY? \_\_\_\_\_ YES \_\_\_\_\_ NO

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

RETURN TO: **KANSAS PUBLIC AND INTERLOCAL RISK SERVICES**  
c/o JIM SEAMAN  
P. O. BOX 1364  
TOPEKA, KANSAS 66601

# **KANSAS PUBLIC AND INTERLOCAL RISK SERVICES**

## **AT-LARGE AND ALTERNATE BOARD MEMBERS**

### **NOMINATION NOTICE**

Kansas Public and Interlocal Risk Services is a liability Pool established under Kansas Statute Annotated 75-6111. The Pool will provide coverage for cities, counties and schools in the state.

Applications for coverage will be mailed to you soon and quotations for coverage should start in December, 1986.

Public officials should be pleased with the limits of coverage, the broadness of coverage, and pricing.

While each city, county or school that joins the Pool will be eligible to nominate a general board member, nominations for at-large board members are also being taken.

Board meetings should be limited to two or three per year.

Please fill out the attached Nomination Form and return it before December 15, 1986.

You will be notified of appointment as either an at-large or at-large alternate member before the end of December, 1986.

# RISK & APPRAISAL MANAGEMENT

WILLIAM A. WARD  
Director

212 South Market / Wichita, Kansas 67202  
(316) 265-1322

December 19, 1986

Mr. Robert Renn  
Renn & Company, Inc.  
209 S. Washington  
Wellington, KS 67152

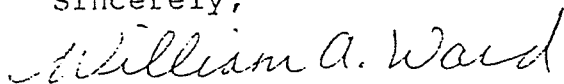
Dear Bob:

I am enclosing some material on the Workers Compensation Self-Insured Program. When you get to the page on structure, the Property and Casualty Trust Fund is under consideration but would not be set up until the Comp. Trust is established.

We have made some presentations and have been very well received. Our hope is to get sufficient interest with about fifteen to twenty entities to have a joint meeting of all those interested to make another presentation and to start the study by them for establishing the trust. We hope to have this meeting in the latter part of January or the first part of February of 1987. We will be happy to come and have a meeting with your Commissioners of the city and the county to give them a preliminary explanation of what we are attempting to do.

Have a good Christmas, and I will talk to you before the new year holiday.

Sincerely,



William A. Ward

WAW/cmc

Enclosure

House Insurance Committee  
Jan. 28, 1987  
Att. 5

## COVERAGE

WPRS, Inc. would propose to provide Workers' Compensation coverage through the establishment of a self-funded pool. The pool would be composed of two parts, a claims fund and an administrative fund.

The claims fund would receive 70 to 80% of the premium dollars contributed by the membership. The fund would be used exclusively for the payment of claims. The claims fund would be protected in three ways. First through specific reinsurance. The fund would pay claim expenses on any single claim up to a specified limit. Should the claim exceed the specific reinsurance limit, reinsurance would then pay. The second level of protection would be provided through aggregate reinsurance. Aggregate coverage would pay claims if all of the monies allocated to the claims fund had been exhausted up to a fixed amount. The third level of protection would be provided through the purchase of an AD&D policy. This policy would limit the claims fund liability in the case of death or dismemberment to \$10,000.

The specific reinsurance attachment point, the aggregate attachment point and the aggregate limit are negotiated items with the reinsurance company. WPRS will collect all membership loss data, prepare an actuarial study, and market the proposed pool to a variety of reinsurance companies. Specific limit would be statutory, aggregate limit \$5,000,000 and liability \$100,000. The administrative fund would receive 20-30% of premium dollars. The administrative fund pays all expenses except claims, such as reinsurance, claims handling, loss control marketing/administration and any applicable state taxes.

Premiums will be developed in a similar manner to the commercial policies. Estimated salaries will be applied to classifications using current classification rates to develop manual premium. Each members' experience modification will then be applied to determine a standard premium. A normal premium will then be developed using a premium discount between 5% - 20%.

An audit will be performed at year-end to reconcile any differences between estimated premium and actual premium.

Any funds remaining at year-end in the administrative fund will be applied as an offset against future years administrative expenses. Any funds remaining in the claims fund may be distributed to the membership in the form of a dividend after one year from the close of the policy period. Dividends would be available to any member whose premiums exceeded incurred losses. Calculations of dividend would be developed on a pro-rata basis.



## PHILOSOPHY

WPRS believes all legitimate claims should be paid fairly and promptly. Questionable claims should be investigated to determine appropriateness and denied if found to be illegitimate. Subrogation should be pursued in all cases where opportunities exist. Claims must not only be handled through payment, but must be managed to set realistic reserve and to reduce costs wherever possible. Rehabilitation should be used to return injured employees into productive positions. We have found that costs can be reduced when contact with injured employees is made as quickly as possible. Therefore we attempt to make contact within 48 hours of notice of accident with employees.

Loss Control is the key to a self-funded program. A well defined and visible program that has the support of upper management will positively impact the frequency of loss and ultimately the severity of loss. Our loss control representatives are experienced in developing programs for public entities. Programs are developed that are realistic and have proven track records. We take a three tiered approach: First, programs are designed to raise the awareness of safety trust-wide. Second, to concentrate on specific problems that are identified by the trust, by members or through review of monthly statistical trends. Third, to anticipate areas where problems are common, such as chlorine seminars prior to swimming pool operation, or confined space entry, or grass cutting season, or back injuries caused by improper lifting techniques. We have video equipment which we use to film actual work situations and have employees review and comment on their safety practices.

Our statistical reports provide the state-of-the-art in monitoring of claims. The reports will be used by our loss control people to quickly identify loss trends by member, by department and by cause. These reports will alleviate any guessing and identify quickly what and where problems exist.

### Questions Regarding Public Entity Pools

1. Does K.S.A. 12-2901 et. seq. eliminate all Insurance Department authority over pools?
2. What must a public entity do now to individually qualify as a W.C. self-insurer?
3. If K.S.A. 44-532 doesn't apply, why the separate reserve fund under K.S.A. 44-505f or 12-2615?
4. Doesn't authority to pool under the Kansas Tort Claims Act K.S.A. 75-6111 apply only to liability insurance?
5. Can cities obligate themselves under future budgets for current claims experience that might result in future assessments?
6. Is there a requirement that the pool provide coverage for participants through specific stop-loss and aggregate stop-loss on the various lines of coverage provided by the pool?
7. Will "cut-through" endorsements be provided by the reinsurer to protect individual participants in the event the pool becomes insolvent?
8. Will there be written underwriting standards, and if so, will they be filed?
9. Can underwriting standards be applied without requiring a two-thirds vote by members?
10. Is there any limitation on a participant's commitment to pay contributions (assessments)?
11. What legal recourse, besides expulsion, does the pool have to force payment?
12. Will members be required to submit complete information on the types and amounts of exposures to loss that will be insured?
13. What specific terms of coverage will be provided? Have the "policy forms" been tested in court?
14. Will any of the coverages be provided on a claims-made basis? If so, how will "prior acts" be covered for new entrants to the pool and how will "tail" coverage be provided for a participant wishing to leave the pool? What will be charged for the "tail?"

15. How will claims reserves be established and monitored for future development and participants be advised in this area? Will the pool use an outside actuarial firm?
16. Will the pool be providing property coverage on an all-risk, replacement cost basis? Will appraisals be required? If no appraisals, how will claims be adjusted after the property is destroyed?
17. Will a withdrawing participant lose their right to a refund (dividend) yet remain liable for future assessments? How long will they be liable for potential assessments?
18. How will the pool handle special events coverage such as participant liability on a Demolition Derby (a risk actually submitted to the Kansas MAP Plan)? What about professional liability exposures?
19. What extraordinary risks of public entities will be excluded or charged extra for? What will be the charges?
20. What rating base and rates will be used? Will the rates be based on an actuarial analysis or simply some average of what public entities are paying now?
21. What administrative costs are built into the program and for what services? Are copies of the service contracts available or will they be filed?
22. Will a participant have to pay for each hour of loss control or safety engineering provided? If so, how many hours must they accept? If not, how will you control the potential uneven demand among participants for these services?
23. Who will do the filings? audits? loss control? claims administration? "risk management"? endorsements? certificates of insurance? review outside contracts from an insurance standpoint?
24. What limits will the program offer?
25. How will vehicles insured under the plan qualify under other state's auto insurance requirements? In the case of cities/counties will trucks be able to enter other states w/KCC type requirements?
26. Why would risk management be any more effective under pools than under traditional insurance?
27. How will pools guarantee future coverage availability?

28. Will pools provide stabilized insurance costs or will they fluctuate even more with Kansas small premium base?
29. What happens if the pool becomes insolvent? Who pays pending claims? If claims-made coverage was provided who will provide "tail" coverage? Will there be any recovery for "premiums" paid?
30. If a claim or coverage dispute arises between a member and the pool, who will mediate if there is no Insurance Department oversight?
31. If a member of the public is mistreated on a claim, who do they appeal to with no Insurance Department oversight?
32. What fiscal impact to state general revenues will result from the loss of premium tax income?
33. Who will have regulatory oversight of the sales practices and representations made by those who market the pool?