Approved 2-17-87
Date

MINUTES OF THE House COMMITTEE ON Insurance.

The meeting was called to order by Rep. Dale M. Sprague at
Chairperson

3:30 ~~a.m.~~/p.m. on February 16, 1987 in room 531-N of the Capitol.

All members were present except:

Rep. Littlejohn, excused

Committee staff present:

Chris Courtwright, Research Department
Bill Edds, Revisor's Office
Deanna Willard, Committee Secretary

Conferees appearing before the committee:
Larry Magill, Independent Insurance Agents of Kansas

The meeting was called to order by the Chairman.

The minutes of the February 11 and 12 meetings were approved.

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

Mr. Larry Magill, IIAK, presented testimony in opposition to the bill based on the premise that the public will assume the group self-insurance pools are subject to Insurance Department rules and regulations. (Att.1.)

Mr. Magill also offered a proposed substitute bill with what they consider to be minimal Insurance Department regulatory control. (Att. 2.)

He said that the insurance companies were opposed to these pools as they are, in effect, assessable mutual companies, which--according to Mr. Dick Brock, Kansas Insurance Department, can no longer be formed in the state.

Staff was directed to determine if school boards now have authority to enter into pooling agreements and to levy tax to pay for the obligations of another school district. Also, they are looking for language to see how other states with pooling arrangements allow them to make assessments against the fund by the use of property taxes. Another point in question is to determine if there is authority to incur liability for the current budget year against future budget years.

The Chairman informed the Committee that the bylaws and articles of the proposed Kansas Association of School Boards Workers' Compensation Fund, Inc. are available.

A school board association representative said that there would be no one committed to the program until there is $1 million in premium volume. He said they are not getting any risk management through the insurance companies and feel they can work better with the districts. A district can be expelled from the pool for not participating in risk management.

The rates are the same for everyone based on per capita; National

Council rates will be used for three to five years until a claim history can be developed. There is an experience modification factor used as a leveling instrument. Claims history will not exclude a school district from the pool; requirements are that it must participate in risk management, pay premiums, and be a member of KASB.

Staff was asked to get the fiscal note--the amount lost if the school district doesn't have to pay premium tax. Also, it is to be determined whether pools tend to become coverage of gold-plated risks or whether they cover otherwise uninsurables.

There was concern expressed that the bill doesn't seem secure enough for a long term basis, that perhaps bylaws or guidelines for them should be a part of statute so they could not be changed at will. A set of the bylaws and articles will be provided the Insurance Department and staff for their perusal.

The meeting was adjourned at 4:30 p.m.

Date: 2-16-87

GUEST REGISTER

HOUSE
COMMITTEE ON INSURANCE

NAME	ORGANIZATION	ADDRESS	PHONE
Jack Roberts	Blue Cross - Blue Shield	Topeka, Ks	
Dick Brock	Ins Dept	" "	
Norm Wilks	Ks Assoc of School Bds	Topeka	273-3600
Bernie Hayen	League of Kansas Municipalities	Topeka	
Laurie Hartman	Kansas Bar Association	Topeka	234-5696
Richard Funk	KASB	Topeka	

Testimony on HB 2109
Before the House Insurance Committee
February 16, 1987
By: Larry W. Magill, Jr., Executive Vice President
Independent Insurance Agents of Kansas

Thank you, Mr. Chairman, and members of the committee for the opportunity to appear today in opposition to HB 2109. 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 to our clients.

We are not opposed to individual self-insurance nor are we opposed to group self-insurance as long as groups are recognized as assessable mutual insurance companies that must play by the same rules as everyone else. But we are opposed to HB 2109 in its present form.

The intent of HB 2109 is clearly to provide insurance and clearly involves the formation of mutual assessable insurance companies or reciprocal insurance exchanges. When the proponents speak of self-insurance, it is only a question of the self-retention level or deductible that will be assumed by the group. Just as an insurance company only retains a certain portion of each risk it insures, a group self-insurance pool will only retain a certain level and will purchase excess or reinsurance for the remainder.

While individual self-insurance is largely unregulated except for mandated coverages such as workers' compensation, automobile liability and medical malpractice liability, group self-insurance, to our

knowledge, is universally regulated because of its similarity to the formation of an insurance company. The public will assume that insurance laws and regulations apply to these group self-insurance pools and that these groups have met standards and are subject to Insurance Department oversight.

We feel it would be a grave public policy error to turn public entity group self-insurance pools loose without any Insurance Department regulatory oversight. The legislature recognized the validity of this argument when it set-up the group workers' compensation self-insurance statute, K.S.A. 40-581.

The purpose of insurance regulation is to protect against insolvency and protect consumers of insurance and the public (injured third parties, workers, etc.) from the actions of insurance companies. With all due respect to the proponents of HB 2109, who I am sure will act responsibly, the purposes, needs and goals of these group self-insurance pools may very well be at odds with the best interests of individual buyers and members of the public who are injured. The Insurance Department plays a critical role in mediating these types of insurance disputes.

Despite public entities' tax levying power, the taxpayers who will shoulder the burden if these groups fail will look for the responsible parties to blame. In the case of small public entities, the tax burden could very well exceed their tax levy ability. Attached to our testimony is a copy of a newsletter describing the near bankruptcy of South Tuscon, Arizona as a result of a largely uninsured police professional liability claim.

The public entities themselves need a forum such as the Insurance

Department to air covera_ and claims disputes with_ having to resort to expensive litigation.

Injured third parties and workers deserve a forum such as the Insurance Department offers to arbitrate disputes, again without expensive litigation.

We see no valid reason not to establish a "level playing field" for all insurance companies. The legislature has not granted preferential treatment to public entities to compete against private enterprise in other areas; why should it in insurance? When a public entity buys insurance today it is paying 1-2% premium tax, assessments for the operation of the Insurance Department and the division of workers' compensation, costs for insurance companies to participate in assigned risk programs for the lines of insurance written, and the cost of financial and market conduct exams by the Insurance Department. We feel group self-insurance pools should bear these same costs.

One of the underlying concepts of group self-insurance pools is that they allow smaller entities to self-insure. But these are the very entities that are generally much less sophisticated insurance buyers without their own risk managers and in need of Insurance Department regulatory oversight for their own protection. Remember that under group self-insurance each member (insured) who joins the group is tied to the fate of the entire group. Bad claims experience, poor management, weak loss control and safety engineering, unusual exposures to loss of a few, failure to purchase proper excess insurance or maintain it, failure to carefully underwrite (select risks), inadequate pricing, failure to properly design insurance coverages and failure to appreciate the exposures to loss covered by the policies

that they offer such as pollution, asbestosis, school board professional, athletic activities, school buses, etc., can have a dramatic impact on each member of the group.

If this committee should decide that some form of group self-insurance authorization is appropriate, we question why that authority should be limited to only certain trade associations. But even with that limitation, other questionable operators may try to qualify under the exemption, which could seriously undermine the Insurance Department's ability to protect public entity buyers of insurance. Obviously, these group self-insurance schemes have the potential of spinning off substantial revenues to the sponsoring organizations. Even the Independent Insurance Agents of Kansas might be interested in setting up group self-insurance pools. We believe everyone should be subject to the same rules and regulations.

The proponents seem to be arguing that the costs of adequate regulation would be too great to form these group self-insurance pools or that such regulation would make them the same as insurance companies. If that is the case, then we question why a group workers' compensation pool has been formed for eastern Kansas cities and counties under present law. Furthermore, no major amendments have ever been proposed to the group workers' compensation statute.

If the substantial cost savings that proponents have argued are there really exist, then the cost of minimal regulation should not be a problem.

The proponents of HB 2109 have also concentrated their comments on workers' compensation, only one line among many different types of insurance that would be authorized by HB 2109. Obviously, the more

different types of insurance coverage a group self-insurance pool offers, the greater the hazard to the pool and its members and the more volatile its claims experience will become. The pool may pick up long-tail liability lines and possibly liability exposures it never even contemplated.

Even workers' compensation claims can develop reserves on individual losses of over $2 million. For example, USF&G Insurance Company currently has a reserve of $2,706,559 for a young driver injured in an automobile accident while deliverying blueprints. While this is the total payout over the victim's entire life span, I think you will agree it is a significantly more serious risk than what may generally be associated with workers' compensation insurance.

The proponents have also argued that the risk is low for these groups because of the purchase of excess insurance. Yet the excess insurance is not guaranteed to be available and loss of the coverage could create permanent gaps for the participants of a pool. Further, the Insurance Department has little control over the types of insurance companies that generally offer this excess coverage. We are aware that the MIRMA (Missouri Intergovernmental Risk Management Agency) lost its reinsurance during the past year, creating just such a gap.

The proponents have argued that group self-insurance will even out the ups and downs of the insurance cycle, but we think that is doubtful. They will still be subject to the cycles' affect on both the cost and availability of excess insurance. Plus the smaller premium base from a Kansas only group may cause their experience to fluctuate even more unpredictably, affecting both the cost and the solvency of the pools. They may be in for more of a roller coaster ride than the

traditional insurance market has even had.

To our knowledge, the proponents have done no quantitative studies that would substantiate the claim to savings or even give them a good idea of whether a pool is feasible.

Nevertheless, if the legislature feels a compelling need to authorize such group self-insurance pools, we have attached a proposal we feel would provide a workable framework for them. This could either be a substitute bill or new committee legislation and provides what we consider to be minimal Insurance Department regulatory control over group self-insurance pools. It is patterned after the group workers' compensation self-insurance law, K.S.A. 44-581, but modified for all lines and for public entities.

We would be happy to respond to questions either on our testimony or the bill draft. We do appreciate the opportunity to appear today in opposition to HB 2109.

RISK LINE

A BI-MONTHLY PUBLICATION
OF RISK MANAGEMENT PUBLISHING

☐ Route to:
☐ Finance Director
☐ Safety Director
☐ Purchasing Agent
☐ Risk Manager
☐ _____

FEBRUARY 1984

GOOD NEWS FROM SOUTH TUCSON

A plan has finally been developed by the City of South Tucson which is acceptable to Roy Garcia and will close the 4½ year saga that began in 1978. The settlement, with a value of about $3 million, will probably complete the city's financial reorganization in U.S. Bankruptcy Court.

According to *The Arizona Daily Star,* the terms of the settlement are:

- South Tucson will pay about $160,000 to the State Compensation Fund for Garcia's medical bills.
- $70,000 cash followed by $10,000 payments each month for the next 12 months from its General Fund.
- $40,000 per year starting May 1, 1986 and continuing through May 1, 1995.
- A planned bond sale, if completed, would have the $1.5 million proceeds pass directly to Garcia.
- South Tucson believes it has a claim against an insurance broker and others arising from its inadequate liability insurance coverage ($100,000). South Tucson has assigned 90% of any recovery from that claim, up to $10 million in compensatory damages, to the Garcias.

Due to the fact that the settlement was approved by the South Tucson City Council in an emergency meeting, some people have claimed that this might violate the State of Arizona's open meeting law. (Editor's Note: What more could happen? We are personally pleased that both parties, after all of these years, could come to an amicable agreement.)

ARIZONA MAKES THE NEWS AGAIN!

On February 9, 1984, a Pima County (Tucson)jury awarded $5 million to a 12-year old permanently brain damaged boy and an additional $1.5 million to the boy's parents. The judgment was against two doctors, two nurses, and the State of Arizona. What makes this of interest to us is that it is believed to be the first such case against a Poison and Drug Information Center which is operated by a state agency. The center operates an emergency hot line for treatment of poisonings. It was alledged that it was negligent in advice it gave to one of the doctors.

The chances are very great that the State of Arizona will appeal this judgment. If the decision holds, it is feared that the center will be the legal scapegoat for liability in accidental poisonings. The broader impact of this decision on the other 27 regional poison-control centers in the country and the more than 600 poison-information centers in the United States, is still to be determined. We will try to keep you informed on other developments in this case.

SALE! SALE! SALE!

We have found several boxes of our paperback book *Contractual Insurance Agreements for Utilities* by Richard Grennan. We feel that this book will help its readers understand insurance requirements of contracts even if you are not a utility — it has broad applications.

The book regularly sold for $17.95 plus $2.00 for postage and handling. A clearance sale will be held to April 1 — $10.00 each plus $2.00 postage and handling. Send your check, payable to Risk Management Publishing Company, for $12.00 and we will get the book to you by return mail. (Prepaid orders only, please.)

Section 1. Group-funded self-insurance pools; requirements. Twenty-five or more municipalities, as defined in K.S.A. 75-6102, who are the same or similar type of municipality may enter into agreements to pool their liabilities for Kansas fire, marine, inland marine and allied lines as defined in K.S.A. 40-901, casualty, surety and fidelity lines as defined in K.S.A. 40-1102, workers' compensation and employers liability. Such arrangements shall be known as group-funded self-insurance pools, which shall not be deemed to be insurance or insurance companies and shall not be subject to the provisions of chapter 40 of the Kansas Statutes Annotated, except as otherwise provided herein.

Section 2. Same; certificate of authority; application. Application for a certificate of authority to operate a pool shall be made to the commissioner of insurance not less then 60 days prior to the proposed inception date of the pool. The application shall include the following:

(a) A copy of the bylaws of the proposed pool, a copy of the articles of incorporation, if any, and a copy of all agreements and rules of the proposed pool. If any of the bylaws, articles of incorporation, agreements or rules are changed, the pool shall notify the commissioner within 30 days after such change.

(b) A copy of the trust agreement or argeements securing the payment of each line of coverage offered by the pool. If a trust agreement is changed, the pool shall notify the commissioner within 30 days after such change.

(c) Designation of the initial board of trustees and administrator.

When there is a change in the membership of the board of trustees or change of administrator, the pool shall notify the commissioner within 30 days after such change.

(d) The address where the books and records of the pool will be maintained at all times. If this address is changed, the pool shall notify the commissioner within 30 days after such change.

(e) An individual application for each initial member of the pool. Each individual application shall include a current certified financial statement on a form approved by the commissioner.

(f) A current certified financial statement on a form approved by the commissioner showing the financial ability of the pool to meet its obligations under each line of coverage offered by the pool.

(g) Evidence that the annual Kansas gross premium of the pool will not be less than $250,000 for each line of coverage offered by the pool. The annual Kansas gross premium shall be based upon the authorized rates as filed by the insurance services office for all lines of coverage for which they file rates, the surety association of america for fidelity and surety or the national council of compensation insurance for workers' compensation and employers liability.

(h) An indemnity agreement jointly and severally binding the group and each member thereof to indemnify the pool. The indemnity agreement shall be in a form acceptable to the commissioner.

(i) Proof of payment by each member of not less than 25% of the estimated annual premium into a designated depository.

(j) A copy of the procedures adopted by the pool to provide services with respect to underwriting matters and safety engineering.

(k) A copy of the procedures adopted by the pool to provide claims

adjusting and reporting of loss data.

(l) A confirmation of specific and aggregate excess insurance.

(m) All insurance coverage forms, subject to approval by the commissioner.

(n) Any other relevant factors the commissioner may deem necessary.

Section 3. Same; irrevocable consent; service of process on commissioner of insurance. Every group-funded self-insurance pool applying for authority to operate a pool in this state, as a condition precedent to obtaining such authority, shall file in the insurance department a written irrevocable consent, that any action may be commenced against such pool in the proper court of any county in this state in which the cause of action shall arise or in which the plaintiff may reside by the service of process on the commissioner of insurance of this state, and stipulating and agreeing that such service shall be taken and held in all courts to be as valid and binding as if due service has been made upon the trustees or the administrator of such pool. The consent shall be executed by the board of trustees and shall be accompanied by a duly certified copy of the resolution passed by the trustees to execute such consent.

Section 4. Same; certificate of authority and renewals; expiration; examinations.

(a) The application for a new certificate or a renewal of an existing certificate shall be signed by the trustees of the trust fund created by the pool. Any application for a renewal of an existing certificate shall meet at least the standards established in subsections (f), (g), (h), (i), (j), (k), (l), (m) and (n) of Section 2. After evaluating the application the commissioner shall notify the applicant that the

plan submitted is approved or conversely, if the plan submitted is inadequate, the commissioner shall then fully explain to the applicant what additional requirements must be met. If the application is denied, the applicant shall have 10 days to make an application for hearing by the commissioner after the denial notice is received. A record shall be made of such hearing and the cost thereof shall be assessed against the applicant requesting the hearing.

(b) All certificates granted hereunder shall expire on April 30 of each year unless sooner suspended or revoked by the commissioner.

(c) Whenever the commissioner shall deem it necessary the commissioner may make, or direct to be made, an examination of the affairs and financial condition of any pool, except that once every five years the commissioner shall conduct an examination of the affairs and financial condition of each pool. Each pool shall submit a certified independent audited financial statement on or before March 31 of each year. The financial statement shall include outstanding reserves for claims and for claims incurred but not reported. Each pool shall file payroll records, accident experience and compensation reports and such other reports and statements at such times and in such manner as the commissioner shall require. Whenever it appears to the commissioner from such examination or other satisfcatory evidence that the solvency of any such pool is impaired, or that it is doing business in violation of any of the laws of this state, or that its affairs are in an unsound condition so as to endanger its ability to pay or cause to be paid claims in the amount, manner and time due as provided for in the Kansas workmen's compensation act or under the policies of insurance issued by the pool, the commissioner shall, before filing

such report or making the same public, grant such pool upon reasonable notice a hearing, and, if on such hearing the report be confirmed, the commissioner shall suspend the certificate of authority for such pool until its solvency shall have been fully restored and the laws of the state fully complied with. The commissioner may, if there is an unreasonable delay in restoring the solvency of such pool and in complying with the law, revoke the certificate of authority of such pool to do business in this state. Upon revoking any such certificate the commissioner shall communicate the fact to the attorney general, whose duty it shall be to commence and prosecute an action in the proper court to dissolve such pool or to enjoin the same from doing or transacting business in this state. The commissioner of insurance may call a hearing under K.S.A. 40-222b, and amendments thereto, and the provisions shall apply to group workers' compensation pools.

Section 5. Same; premiums; contributions; deposit of premiums; refunds.

(a) Premium contributions to the pool shall be based upon appropriate manual classifications and rates. Classification rates for commerical lines of property and casualty insurance may be modified to produce rates for individual risks in accordance with rules and regulations promulgated by the commissioner establishing reasonable standards for rating plans including experience rating plans, schedule rating plans, individual risk premium modification plans and expense reduction plans designed to modify rates in the development of premiums for individual risks except that workers' compensation coverage shall not receive an advance discount of more than 15% of manual premium. The pool must use rules, classifications and rates as promulgated by the insurance

services office for all lines of coverage for which they file rates, the surety association of america for fidelity and surety or the national council on compensation insurance and must report premium and loss data to a rating organization.

(b) At least 70% of the annual premium shall be placed into a designated depository for the sole purpose of paying claims. This shall be called the claims fund account. The remaining annual premium shall be placed into a designated depository for the payment of taxes, fees and administrative costs. This shall be called the administrative fund account.

(c) Any surplus moneys for a fund year in excess of the amount necessary to fulfill all obligations under the policies for that fund year may be declared to be refundable by the trustees not less than 12 months after the end of the fund year, upon the approval of the commissioner. Such approval can be obtained only upon satisfactory evidence that sufficient funds remain on deposit for the payment of all outstanding claims and expenses, including incurred but not reported claims. Any such refund shall be paid only to those employers who remained participants in the pool for an entire year. Payment of previously earned refunds shall not be contingent on continued membership in the pool.

Section 6. Same; premiums; use; investments. The trustees shall not utilize any of the moneys collected as premiums for any purpose unrelated to providing coverage under the pool. Moneys not needed for current obligations may be invested by the trustees. Such investments shall be limited to bonds or other evidences of indebtedness issued, assumed or guaranteed by the United States of America, or by any agency

or instrumentality thereof; in certificates of deposit in a federally insured bank; or in shares or savings deposits in a federally insured savings and loan association.

Section 7. Same; premium tax; payment. In addition to the fees required to be paid in K.S.A. 44-587, and as a condition precedent to the continuation of the certificate of authority provided in this act, all group-funded self-insurance pools shall pay a tax annually upon the annual Kansas gross premium based upon the manual rates in effect at the date of renewal pursuant to Section 5 at the rate of 1% per annum applied to the premiums of the pool for the preceding calendar year. In the computation of the tax, all pools shall be entitled to deduct any annual Kansas gross premiums returned on account of cancellation or dividends returned to members of such pools or expenditures used for the purchase of specific and aggregate excess insurance, as provided in subsection (e) of Section 2.

Section 8. Same; assessments; subject to article 24 of chapter 40 of the Kansas Statutes Annotated.

(a) Each licensed pool shall be assessed annually as provided by K.S.A. 74-713, K.S.A. 44-566a, and amendments thereto, and K.S.A. 44-588.

(b) If automobile bodily injury and property damage liability insurance is provided by the pool, it shall be subject to the provisions of K.S.A. 40-2102. If workers' compensation and employers liability coverage is provided by the pool, it shall be subject to the provisions of K.S.A. 40-2109.

(c) Each licensed pool shall be subject to the provisions of article 24 of chapter 40 of the Kansas Statutes Annotated.

Section 9. Same; new members; application; termination.

(a) After the inception date of the group-funded self-insurance pool, prospective new members of the pool shall submit an application for membership to the board of trustees or its administrator. The trustees may approve the application for membership pursuant to the bylaws of the pool. The application for membership and approval shall then be filed with the commissioner. Membership takes effect after approval.

(b) Individual members may elect to terminate their participation in a pool or be subject to cancellation by the pool pursuant to the bylaws of the pool. On termination or cancellation of a member, the pool shall notify the commissioner within 10 days and shall maintain coverage of each cancelled or terminating member for 30 days after notice to the commissioner or until the commissioner gives notice that the cancelled or terminating member has procured insurance, whichever occurs first, subject to the provisions of K.S.A. 40-2,120 and K.S.A. 40-2,121.

Section 10. Same; board of trustees; duties. To ensure the financial stability of the operations of each group-funded self-insurance pool, the board of trustees of each pool is responsible for all operations of the pool. The board of trustees shall consist of not less than three nor more than 11 persons whom a pool elects for stated terms of office to direct the administration of a pool, and whose duties include approving applications by new members of the pool. The majority of the trustees must be members of the pool, but a trustee may not be an owner, officer or employee of any service agent or representative. All trustees must be residents of this state. The board of trustees of each fund shall take all necessary precautions to

safeguard the assets of the fund, including all of the following:

(a) Designate an administrator to administer the financial affairs of the pool who shall furnish a fidelity bond to the pool in an amount sufficient to protect the pool against the misappropriation or misuse of any moneys or securities. The commissioner shall determine the amount of the bond and the administrator shall file evidence of the bond with the commissioner. The bond is one of the conditions required for approval of the establishment and continued operation of a pool.

(b) Retain control of all moneys collected or disbursed from the pool and segregate all moneys into a claims fund account and an administrative fund acount. The amount allocated to the claims fund account shall be sufficient to cover payment of any aggregate loss fund as defined in the aggregate excess policy. Only disbursements that are credited toward the aggregate loss fund are made from the claims fund account. All administrative costs and other disbursements are made from the administrative fund account. The administrator of the pool shall establish a revolving fund for use by the authoried service agent which is replenished from time to time from the claims fund account. The service agent and its employees shall be covered by a fidelity bond, with the pool as obligee, in an amount sufficient to protect all moneys placed in the revolving fund.

(c) Audit the accounts and records of the pool annually or at any time as required. The commissioner may prescribe the type of audits and a uniform accounting system for use by pool and service agents to determine the solvency of the pool.

(d) The trustees shall not extend credit to individual members for payment of a premium.

(e) The board of trustees shall not borrow any moneys from the pool or in the name of the pool without advising the commissioner of the nature and purpose of the loan and obtaining approval from the commissioner.

(f) The board of trustees may delegate authority for specific functions to the administrator of the pool. The functions which the board may delegate include such matters as contracting with a service agent, determining the premium chargeable to and refunds payable to members, investing surplus moneys and approving applications for membership. The board of trustees shall specifically define all authority it delegates in the written minutes of the trustees' meetings. Any delegation of authority is not effective without a formal resolution passed by the trustees.

Section 11. Same; licensing of persons soliciting insurance. Any person soliciting the business of insurance for a group-funded self-insurance pool must be licensed as provided in K.S.A. 40-240 to 40-243, and amendments thereto.

Section 12. Same; subject to K.S.A. 40-246(b) to K.S.A. 40-246(e).

Each licensed pool shall be subject to the provisions of K.S.A. 40-246(b) to K.S.A. 40-246(e).

Section 13. K.S.A. 12-2906 is hereby amended to read as follows:

12-2906. Same; additional approval of certain agreements. In the event that an agreement made pursuant to this act shall deal in whole or in part with the provisions of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition

precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by the state officer or agency as to all matters within his, hers or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorney general pursuant to K.S.A. 12-2904(f). This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorney general.

Any agreement to purchase insurance or to self-insure shall be subject to the provisions of 1987 House Bill _____.

Section 14. K.S.A. 75-6111 is hereby amended to read as follows: (see attached copy of the statute).

Section 15. K.S.A. 12-2906 and K.S.A. 75-6111 are hereby repealed.

Section 16. This act shall take effect and be in force from and after its publication in the statute book.

of cities, counties and school districts, to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located in such county or such school district. All such tax levies shall be exempt from the limitations imposed under the provisions of K.S.A. 79-5001 to 79-5016, inclusive, and amendments thereto, and shall not be subject to or limited by any other tax levy limitation prescribed by law.

History: L. 1979, ch. 186, § 10; July 1.

75-6111. Same; purchase of insurance by governmental entities; interlocal agreements for purchase of insurance or pooling arrangements; expenditures for certain costs not budgeted for 1979. (a) A governmental entity may obtain insurance to provide for (1) its defense, (2) for its liability for claims pursuant to this act, including liability for civil rights actions as provided in K.S.A. 75-6116, (3) the defense of its employees, and (4) for medical payment insurance when purchased in conjunction with insurance authorized by (1), (2) or (3) above.

Any insurance purchased under the provisions of this section may be purchased from any insurance company or association. In the case of municipalities any such insurance may be obtained by competitive bids or by negotiation. In the case of the state, any such insurance shall be purchased in the manner and subject to the limitations prescribed by K.S.A. 75-4114, and amendments thereto. With regard to claims pursuant to the Kansas tort claims act, insurers of governmental entities may avail themselves of any defense that would be available to a governmental entity defending itself in an action within the scope of this act, except that the limitation on liability provided by subsection (a) of K.S.A. 75-6105 shall not be applicable where the contract of insurance provides for coverage in excess of such limitation in which case the limitation on liability shall be fixed at the amount for which insurance coverage has been purchased.

(b) Pursuant to the interlocal cooperation act, municipalities may enter into interlocal agreements providing for:

(1) The purchase of insurance to provide for the defense of employees and for liability for claims pursuant to this act; or

(2) pooling arrangements or other agreements to share and pay expenditures for judgments, settlements, defense costs and other direct or indirect expenses incurred as a result of implementation of this act including, but not limited to, the establishment of special funds to pay such expenses. ~~With regard to establishing and maintaining such pooling arrangements or other agreements to share in expenditures incurred pursuant to this act, governmental entities and employees or agents thereof shall not be required to be licensed pursuant to the insurance laws of this state~~.

(c) Any municipality which for the year 1979 has failed to budget sufficient money to pay premiums for the purchase of liability insurance under the provisions of this act, or to pay the cost of risk management and insurance consultant services or other direct and indirect costs of implementing this act during the year 1979, is hereby authorized to expend any uncommitted moneys which may be available to it which may be expended for such purpose, notwithstanding the provisions of K.S.A. 79-2935. If no such moneys are available to a municipality authorized by law to issue no-fund warrants, such a municipality may issue no-fund warrants therefor in accordance with the procedures set forth in K.S.A. 79-2938 but the approval of the state board of tax appeals as to the issuance of such no-fund warrants shall not be required.

History: L. 1979, ch. 186, § 11; July 1.

Law Review and Bar Journal References:

"A Practitioner's Guide to the Kansas Tort Claims Act," Jerry R. Palmer, 48 J.B.A.K. 299, 309 (1979).

"Survey of Kansas Law: Civil Procedure," 29 K.L.R. 449 (1981).

CASE ANNOTATIONS

1. Statutory liability limit of act inapplicable where insurance purchased providing greater coverage. Jackson v. City of Kansas City, 235 K. 278, 320, 680 P.2d 877 (1984).

75-6112. Same; judgments against municipalities, how paid; interest; periodic payments. (a) Upon motion of a municipality against whom final judgment has been rendered for a claim within the scope of this act, the court in accordance with subsection (b) may include in such judgment a requirement that the judgment be paid in whole or in part by periodic payments. Periodic payments may be ordered paid over any period of time not exceeding ten years.