

Approved 2-2-87
Date

MINUTES OF THE House COMMITTEE ON Insurance

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

3:30 ~~xx~~ a.m./p.m. on February 25, 1987 in room 531-N of the Capitol.

All members were present except:

Rep. Cribbs
Rep. Littlejohn, excused

Committee staff present:

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

Conferees appearing before the committee:

Ron Todd, Kansas Insurance Department
Norm Wilks, Kansas Association of School Boards
Larry Magill, Independent Insurance Agents of Kansas

The meeting was called to order by the Chairman.

The minutes of the February 19 and 23 meetings were approved.

Committee discussion on: HB 2109 - school districts, area vocational-technical schools, community colleges, pooling arrangements

The Chairman stated that he would like to expedite this bill; as it is referred separately to the Education Committee, they must consider it, too.

Staff presented a memo regarding budgetary and tax levying authority of school districts as it relates to this bill. (Att. 1.)

Since 1983 about 20 to 25 states have allowed pooling. None of them totally exempt the pools from some insurance department oversight. Texas is now considering a law that would mandate all school districts to participate in a large pool.

Mr. Ron Todd, Kansas Insurance Department, distributed a memo from Fletcher Bell which outlined the Department's opposition to HB 2109. (Att. 2.)

Mr. Todd said that they had worked with the Kansas Association of School Boards on a substitute for the bill which attempted to work the desired provisions into current statutes and to set the premium tax rate the same as for commercial insurance.

Mr. Norm Wilks, KASB, explained the Substitute for House Bill No. 2109 to the Committee. (Att. 3.)

The bill would enable, not require, districts to form pools. They would use currently approved rates; they could change rates with the Commissioner's approval. As the districts would be spending and keeping their own money, money not spent would still be theirs. If experience warrants, they can seek lower rates. Money isn't refunded, as such, if a district leaves the pool, though the trustees can decide to refund excess funds to participants. The

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pool is subject to an annual review and is to be issued a certificate to do business. This would not be issued if the premium volume is below \$1,500,000. There are no restrictions to joining the pool, though a district with excess losses who doesn't follow the preventive procedures can be removed from the pool.

It was suggested that this should be referred for an interim study due to the technicalities; the Chairman said that it is modeled after existing statutes and needs to be expedited as some pools are now being marketed.

An experience rating plan will be used; those who have higher losses pay a higher premium. No one can be insured for more than 10% of the total coverage volume as a protection against a catastrophic loss. The payment of a claim would first be made by the pool, then the reinsurance, then the individual district. Mr. Wilks knows of no situation that has gone that far.

The issue of a class action asbestos suit was raised. Many companies are excluding asbestos from coverage. A settlement couldn't be forced until the next tax levy per K.S.A. 72-8409. Along the same line, a suit couldn't be settled if the insurance company has gone bankrupt.

Mr. Wilks said they believe risk management can be done much more efficiently than the companies are doing it. The management of investment income will be determined by the trustees. He said that it would be no problem to require that monies collected as premiums be deposited in Kansas banks.

Mr. Todd said there is no way to determine a fiscal note to the state without knowing whether each participant is now insured out of state or self-insured. Also, in Section 8, a time should be set when premium tax would be due. August 31 was suggested to correspond with the fiscal year.

Mr. Wilks said they would like to make a change in Section 11; deleting the phrase "that is a member of the pool" would allow the pool to use expertise of other board members not members of the pool.

Employees of the fund aren't required to hold an insurance license, as there would be no company to certify them. A traveling salaried representative of a reciprocal company doesn't need to be licensed now. It was suggested that representatives be required to pass the state exam.

Pools are under the authority of the Unfair Trade Practices Act as are insurance companies regarding claims settlement. Even if a school district leaves the pool, liabilities incurred during time their policy was in force are still covered by the pool.

Mr. Larry Magill, IIAK, said he would rather that all municipalities be covered in one bill. The \$1,500,000 premium volume is not the same as required of insurance companies. They

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must have that much surplus above premium volume. Because of the guaranty fund, a district with a commercial insurance policy is guaranteed a claim will be paid to the policy limit. In pooling, the guaranty fund would not apply even on the excess insurance.

As the pooling might result in skimming the good risks, he said that the pools should be given their share of the assigned risks.

Several commented that they were in favor of moving ahead with the concept. The Chairman asked the revisor to put the draft from KASB in bill form and add in language from the IIAK relative to assigned risk, to insert the provision that deposits be made in Kansas banks, to name the date on which premium taxes would be due, to put in a licensing provision, and to make the requested change in Section 11.

The meeting was adjourned at 5:35 p.m.

MEMORANDUM

February 25, 1987

TO: House Committee on Insurance
FROM: Kansas Legislative Research Department
RE: Budgetary and Tax Levying Authority of School
Districts as Relating to H.B. 2109

School District Mechanisms for Addressing
Insurance Costs

School District General Fund Budgets

Most school district expenditures for insurance are made from the school district general fund. Statutorily imposed budgetary control apply to school district general fund expenditures. Such expenditures are not restricted by any property tax levy limitations. "General fund" means the fund of a district from which operating expenses are paid and into which is deposited general state aid, revenue from the district's general fund property tax levy, motor vehicle taxes, motor vehicle stamp tax receipts, payments from the school district income tax fund, payments from the special county mineral production tax fund, industrial and port authority revenue bond payments in lieu of taxes, certain receipts from the federal government under P.L. 874, and certain other moneys required by law to be deposited in the general fund. "Operating expenses" means the total expenditures and lawful transfers to certain authorized funds from a district's general fund in a school year (July 1 through June 30).

The main budget control on operating expenses is imposed by K.S.A. 1986 Supp. 72-7055(a), which provides that, subject to certain exceptions, in any school year commencing after June 30, 1987 a district may budget and expend for operating expenses per pupil the lesser of 115 percent of its budget per pupil in the preceding school year or 105 percent of the previous year's median budget per pupil in the district's enrollment category. Any district, however, may budget up to 105 percent of its budget per pupil in the preceding year. The Legislature reviews the budget controls each year and often sets controls for the subsequent year different from those contained in the basic law.

Two other provisions of the budget control law (K.S.A. 1986 Supp. 72-7055) also are pertinent to the insurance issue. First, subsection (e) provides additional budget authority in any year in an amount determined by subtracting from the actual expenditures for insurance in the preceding year the amount expended for insurance in the second preceding year increased by the district's budget per pupil control in the preceding year. In this way, extraordinary cost increases for insurance are built into the budget base of a

school district. Second, subsection (h) permits a district to increase its budget per pupil above the basic budget limitation in any amount approved by the voters of the district at an election.

Special Tax Levying Authority

Municipalities, including school districts, have additional authority under K.S.A. 75-6110 to establish special liability expense funds to provide for their defense and the defense of their employees. Additional tax levies imposed for such purposes are not subject to any tax levy limitations.

In the case where a judgment is rendered against a school district, K.S.A. 72-8209 provides that a tax levy shall be made at the first tax levying period, not subject to any levy limitations, sufficient to pay the entire amount of the judgment. When the governing body of the school district fails to make such a levy as provided in the statute, the judgment creditor may recover the amount due from the officer or officers of the body.

Under K.S.A. 79-2939, a school district could in the event of "unforeseen occurrences" that could not have been anticipated when the budget was prepared apply to the State Board of Tax Appeals for authority to issue no-fund warrants to pay for the unforeseen expense. Property taxes may be levied for up to five years to pay such warrants.

Bylaws of Proposed School District Workers' Compensation Pool

The bylaws of the Kansas Association of School Boards' Workers' Compensation Fund, Inc., empower a board of trustees to determine the terms, conditions, and length of contracts signed by fund members. The bylaws also provide, however, that any fund member may withdraw from the fund during its term of contract by giving at least 60 days' notice.

Operation of Insurance Pools Formed Under H.B. 2109

H.B. 2109 would allow school districts to enter into insurance pooling arrangements for the purpose of providing any or all types of insurance to pool members. Such arrangements would be exempt from all laws currently regulating insurance in Kansas. Proponents have said that the bylaws of such pools would be similar to the bylaws of the proposed workers' compensation pool.

To the extent that the purchase of insurance currently is treated as a general fund operating expense, any increase in the cost of insurance purchased by a school district in a pool (or otherwise) would be affected by the various budgetary control provisions. It can be observed from the foregoing explanation that school districts have a variety of tools at their disposal to

enable them to respond to a substantial increase in premiums that resulted from an extraordinarily large claim against the pool.

If a pool members' premiums were increased to an amount greater than the amount at which that member could purchase similar coverage in the traditional insurance market, there would be strong incentive for that member to leave the pool. If that member or a number of members were simply to serve notice and subsequently leave the pool without effectively rescuing the pool from a large claim by paying increased premiums, the pool might have to consider legal recourse against those districts if their leaving the pool violated the contractual agreement. Successful judgments rendered against the school districts could then bring the provisions of K.S.A. 72-8209 into play, authorizing the districts to levy additional taxes for the purposes of settling the judgments.

School District Mechanisms in Other States

In response to the liability insurance crisis of the mid-1980s, a number of states have exempted increased insurance costs from the various levy limitations and budgetary control provisions imposed on school districts.

Those states allowing insurance pooling arrangements for school districts rely primarily on the regulatory oversight granted to state insurance officials over the pools to protect the taxpayers of the school districts. Most statutes allowing pools contain minimum capitalization requirements and subject the financial condition of the pools to review and approval of state insurance departments.

New Jersey, for example, requires that the bylaws of any school district pool set forth procedures to enforce the collection of any contributions or payments in default, set forth membership standards and procedures for withdrawal, establish procedures for the potential termination of the group or fund and disposition of assets, require an annual certified audit to be prepared and filed with the insurance commissioner, and empower the group to determine contributions and rates, loss reserves, limits of coverage, limits of excess or reinsurance, and other financial and operating policies of the group. No school board insurance group may begin functioning in New Jersey until the bylaws have been filed with and approved by the insurance commissioner.

G87-62/CC



STATE OF KANSAS

KANSAS INSURANCE DEPARTMENT

420 S.W. 9th
Topeka 66612-1678 913-296-3071

1-800-432-2484
Consumer Assistance
Division calls only

FLETCHER BELL
Commissioner

M E M O R A N D U M

TO: Committee on Insurance
Kansas House of Representatives

FROM: Fletcher Bell *FB*
Commissioner of Insurance

SUBJECT: House Bill No. 2109

DATE: February 23, 1987

As is obvious from the absence of testimony by my staff, the Insurance Department has no position on House Bill No. 2109. I believe it would be inappropriate for us, as a regulatory unit in the executive branch of state government, to attempt to indicate that school boards, municipalities or other local units of government should not look to self-insurance, pooling mechanisms or another means besides commercial insurance of substituting certainty for uncertainty with respect to catastrophes that can destroy public property or claims of a legal liability nature. At the same time, however, we realize the committee is faced with some very difficult questions. Therefore, with no intention whatsoever of departing from our neutral position on House Bill 2109, the following observations are offered in an attempt to help the committee identify various factors that could have an impact on their decision.

1. House Bill No. 2109 contains no provisions for regulatory oversight.

School boards are conscientious public entities and the Kansas Association of School Boards is a conscientious servant of its members. However, if there is to be no regulatory oversight, some consideration should be given to the possibility of some unknown unanticipated third party putting together a pooling mechanism under House Bill 2109. How would it be detected or policed?

2. House Bill No. 2109 contains no minimum financial requirements or conditions.

The taxing authority of most, perhaps all, governmental entities seems to provide the ultimate assurance that obligations will be met. Despite this assurance, few school boards and, more important, few patrons of a school district would appreciate the implementation

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of a self-funded insurance plan which would expose their property tax to unknown and unlimited increases. Accordingly, it seems that any such pool either internally or by statutory requirement should have sufficient unencumbered resources available to meet reasonable possibilities. Further, it appears reasonable that any such pool would want or should be required to purchase some kind of excess insurance coverage to accommodate unexpected, catastrophic events. The need for such insurance would, of course, diminish with the growth of the fund but potential liabilities (loss reserves) would need to be accounted for in measuring such growth.

The amount of the unencumbered funds previously mentioned is a question mark. However, some guidance may be gained from the fact that current law requires a mutual or reciprocal multiple line insurance company to have a minimum surplus of \$1,500,000. Current laws also place limitations on the percentage of surplus that can be exposed to loss on any one risk; provide for periodic examinations of financial condition; and require an annual or more frequent financial report to a regulatory official. The pool envisioned by House Bill No. 2109 closely resembles a mutual or reciprocal insurance company. Thus, financial requirements based on those applicable to such companies might be a reasonable starting point.

3. The ability to choose which risks to insure as opposed to those whose loss potential seems to be greater than that contemplated by standard rates and contractual provisions is an important management tool for commercial insurers. Whether a pool comprised of like public entities having the same motives and belong to the same association or pool should or could have the ability to select and reject particular risks and claims is a question that perhaps deserves some consideration.

While any number of lesser considerations could be raised, the three mentioned above address the most critical areas. To summarize, I would suggest that adequate safeguards be included in House Bill 2109 to insure that unscrupulous entrepreneurs are prevented from exposing school districts to undesirable pooling arrangements; that adequate financial stability is required and maintained; and that the pool have the latitude to use sound underwriting and loss adjustment principles.

Each of these three primary concerns is multifaceted but, in an effort to be as helpful as possible without unduly complicating the issues, I am hopeful these basic considerations can serve as guides to your deliberations.

There is one final thought which should not escape your attention even though the situation is sufficiently different to raise questions of relevance. In 1976 when the legislature first addressed the medical malpractice situation, there was a distinct feeling on the part of some legislators, health care providers and members of the public that commercial insurers were exaggerating the growth in the number and

severity of medical malpractice claims in Kansas -- that putting all health care providers in a single pool would facilitate implementation of more effective risk management programs -- and that the ability to measure losses and determine the appropriate charge for coverage based solely on Kansas experience would resolve most, if not all, the problems. The mechanism that was going to produce these improvements was called the Health Care Stabilization Fund and we now know it was not the miraculous cure.

If I or members of my staff can provide additional assistance, please do not hesitate to call on us.

SUBSTITUTE FOR HOUSE BILL NO. 2109

K.S.A. 44-581 is used as a guideline for development of a bill authorizing self-funded pooling by school districts.

The strikeover, ballooning is utilized to provide a means for the committee to compare/contrast the laws. However, the bill form should be written as new legislation and not amendments.

2/25/87

Substitute for H.B. 2109 to be included
in Chapter 72 of Kansas Statutes Annotated.

SECTION 1 ~~44-581~~. Group-funded ~~workers' com-~~
~~ensation~~ pools; requirements. Five or
more ~~employers, regardless of domicile,~~
who are members of the same bona fide
~~trade or~~ professional association,
~~regardless of domicile,~~ which has been
in existence for not less than five
years and ~~who are engaged in the same or~~
~~similar type of business~~ may enter into
agreements to pool their liabilities for
~~Kansas workers' compensation benefits~~
~~and employers' liability.~~ Such
arrangements shall be known as group-
funded ~~workers' compensation~~ pools,
which shall not be deemed to be insur-
ance or insurance companies and shall
not be subject to the provisions of
chapter 40 of the Kansas Statutes
Annotated, except as otherwise provided
herein.

Twenty-five
unified school districts, community
colleges, area vocational-technical
schools, or any educational service cen-
ters, or educational interlocals.

Kansas fire, marines, inland marines and
allied lines as defined in K.S.A. 40-901.
Casualty, surety, and fidelity lines as
defined in K.S.A. 40-1102 *including* and workers'
compensation and employers liability.
Such pools shall not include accident,
health or life insurance.

SECTION 2 ~~44-582~~. 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 than 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 securing the payment of workers' compensation benefits. If the trust agreement is changed, the pool shall notify the commissioner within 30 days after such change.~~

(b) ~~(e)~~ 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.

(c) ~~(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.

(d) ~~(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 that the combined net worth of all members applying for coverage on the inception date of the pool is in an amount not less than \$1,000,000.~~

~~(g) A current certified financial statement on a form approved by the commissioner showing the financial ability of the pool to meet its obligations under the workmen's compensation act.~~

~~(e) (h) Evidence that the annual Kansas gross premium of the pool will be not less than \$250,000.~~ The annual Kansas gross premium shall be based upon the authorized rates as filed by the national council of compensation insurance;

~~(f) (i) An indemnity agreement jointly and severally binding the group and each member thereof to comply with the provisions of the workmen's compensation act. The indemnity agreement shall be in a form acceptable to the commissioner.~~

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

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

~~(h) (l) A copy of the procedures adopted by the pool to provide claims adjusting and reporting of loss data.~~

~~(i) (m) A confirmation of specific and aggregate excess insurance.~~

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

For each line of insurance or a cumulative annual gross premium of not less than \$1,500,000 for all lines of insurance.

, for workers' compensation ^{on} rates filed by a licensed rating organization for all other lines of coverage or rates of certain companies, filing rates with the commissioner and approved by the commissioner for the pool.

For all lines of coverage, all members of the pool shall be jointly liable for the payment of claims to the extent of the assets of the pool.

and accumulation of income and expense and loss data.
or adequate surplus funds in the pool.

SECTION 3 ~~44-583~~. Same; irrevocable consent; service of process on commissioner of insurance. Every group-funded ~~workers-~~ ~~compensation~~ 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 had 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 ~~44-584~~. Same; certificate of author-

~~ity 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 K.S.A. 44-582. 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.~~

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

~~(b) (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~~

compliance with statutory provisions and the

financial condition of each 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 satisfactory evidence that the ~~sol-~~ ~~ven-~~ ~~cy~~ 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 ~~the compensation in the amount, manner and time due, as provided for in the Kansas workmen's compensation act,~~ 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 ~~sol-~~ ~~ven-~~ ~~cy~~ 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

[August 31

[reports as to income, expenses, and loss data

[ability to pay current and future claims

[claims in the

[ability to pay current and future CLAIMS

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 ~~44-585~~. Same; premiums; contributions; deposit of premiums; refunds.

25 (a) Premium contributions to the pool shall be based upon appropriate manual classification and rates, plus or minus applicable experience credits or debits, and minus any advance discount approved by the trustees, not to exceed ~~15%~~ of manual premium. The pool must use rules, classifications and rates as promulgated by 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.~~

for workers' compensation. Premium contributions to the pool for all other lines of insurance shall be based on rates filed by a licensed rating organization or on rates of certain companies filing rates with the commissioner and approved by the commissioner

^{1/4} an amount equal~~ed~~ to maintained in the

(c) Any surplus moneys for a fund year in excess of the amount necessary to fulfill all obligations ~~under the work-~~ ^{OF THE POOL} ~~men's compensation act~~ 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 The trustees shall determine remain on deposit for payment of all outstanding claims and expenses, including incurred but not reported claims, Any such refund shall be paid prior to authorizing any refunds 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 ~~44-586~~. Same; premiums; use; investments. The trustees shall not utilize any of the moneys collected as premiums for any purpose unrelated to ~~Kansas~~ the pool. ~~workers' compensation~~. 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 ~~44-587~~. Same; group-funded ~~workers' compensation~~ pools fee fund; expense of administration; assessments. The expense of the administration of the group-funded ~~workers' compensation~~ pools shall be financed in the following manner:

(a) There is hereby created in the state treasury a fund to be called the group-funded ~~workers' compensation~~ pools fee fund. All amounts which are required to be paid from the group pools fee fund for the operating expenditures incident to the administration of the group-funded ~~workers' compensation~~ pools shall be paid from the group-funded workers' compensation pools fee fund. The commissioner of insurance shall be responsible for administering the group-funded ~~workers' compensation~~ pools fee fund and all payments from the fund shall be upon warrants of the director of accounts and report issued pursuant to vouchers approved by the commissioner of insurance or a person or persons designated by the commissioner.

(b) The commissioner of insurance shall estimate as soon as practical after January 1 of each year the expenses necessary for the administration of the group-funded ~~workers' compensation~~ pools for the fiscal year beginning on July 1 thereafter. Not later than June 1 of each year, the commissioner of insurance shall notify all such group-funded ~~workers' compensation~~ pools of the amount of each assessment imposed under this subsection on such group-funded ~~workers' compensation~~ pools and the same shall be due and payable to the commissioner on the July 1 following.

(c) The commissioner of insurance shall remit all moneys received by or for such remittance to the state treasurer. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the group-funded ~~workers' compensation~~ pools fee fund.

SECTION 8 ~~44-588~~. 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 ~~workers' compensation~~ funds 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 subsection (b) of K.S.A. ~~44-584~~ as filed by _____ Section ____.

~~the national council of compensation insurance~~ at the rate of 1% per annum applied to the collective ~~payroll~~ of the pool for the preceding calendar year. *PREMIUM*

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 ~~(m)~~ of K.S.A. ~~44-582~~. Section ____

SECTION 9 ~~44-589~~. Same; assessments; subject to article 24 of chapter 40 of 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) Each licensed pool shall be subject to the provisions of article 24 of chapter 40 of the Kansas Statutes Annotated.

SECTION/O ~~44-590~~. Same; new members; application; termination. (a) After the inception date of the group-funded ~~workers' compensation~~ 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 of 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 _____ workers' compensation 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 workers' compensation and employer's liability insurance, whichever occurs first.

SECTION 11 ~~44-591~~. Same; board of trustees; duties. To ensure the financial stability of the operations of each group-funded ~~workers' compensation~~ 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

APPOINTS

owner, officer or employee of any service agent or representative. All trustees must be residents of this state ~~or officers of corporations authorized to do business in 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.

and a member on the Board of Control of a member of the 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 account. The amount allocated to the claims fund account shall be sufficient to cover payment of any aggregated 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 authorized 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.

may

(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.~~

trustees shall

ability of the pool to pay current and future claims.

(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 12 ~~44-592~~. Same; licensing of persons soliciting ~~workers' compensation~~ membership in the pool insurance. Any person soliciting the business of ~~workers' compensation~~ insurance for a group-funded ~~workers' compensation~~ pool must be licensed as provided in K.S.A. 40-240 to 40-243, and amendments thereto. other than a regulary paid employee of the pool,