

Approved 3-17-87  
Date

MINUTES OF THE House COMMITTEE ON Insurance

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

3:30 ~~xx~~ a.m./p.m. on March 5, 1987 in room 531-N of the Capitol.

All members were present except:

Rep. Littlejohn, excused

Committee staff present:

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

Conferees appearing before the committee:

Ron Smith, Kansas Bar Association  
Dick Brock, Kansas Insurance Department  
Larry Magill, Independent Insurance Agents of Kansas

The meeting was called to order by the Chairman.

The committee members and staff were treated to ice cream bars, compliments of Reps. King and Schauf.

The minutes of the February 26, March 2, and March 3 meetings were approved.

Action on: HB 2109 - School districts; pooling arrangements

Rep. Beauchamp expressed appreciation to the subcommittee and conferees for their work on the bill. Staff presented a memo outlining the subcommittee recommendations. (Att. 1.) Also presented was a rough bill draft with the recommended changes. (Att. 2.) It was pointed out that left off the memo was a change on 11c which directed that "the Commissioner shall prescribe the type of . . . accounting system for use by pool."

The percentage of the annual premium (70) required to be maintained in a claims fund account is higher than the usual standard of 60%. Also, it was pointed out that the Commissioner needn't be advised upon cancellation of a workers' compensation member, but only the division of workers' compensation. (10b). The word "that" in Section 2j should be changed to "if." Section 2e in the memo should refer to "Kansas gross premium" rather than "coverage."

Rep. Gross made a motion that the subcommittee report be adopted as amended; Rep. Neufeld seconded the motion. The motion carried.

Rep. Beauchamp made a motion that the memo (attachment 1) and the long form (attachment 2) be integrated into Substitute for HB 2109; Rep. Harper seconded the motion. The motion carried.

Rep. Cribbs made a motion that the substitute bill be recommended favorably as amended; Rep. Gross seconded the motion. The motion carried. Rep. Brady asked to be recorded "no."

The Chairman expressed his appreciation to the committee and

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,  
room 531-N, Statehouse, at 3:30 <sup>XX</sup> a.m./p.m. on March 5, 1987.

subcommittee for their work on this bill.

Hearing on: HB 2503 - Insurance; defense costs excluded from limits of coverage

Mr. Ron Smith, Kansas Bar Association, testified in support of this bill which would prevent property and casualty policy contracts from including defense costs within the policy limits. The bill would spell out in statute what is now current practice. For example, a \$25,000 policy would pay up to that amount in indemnity coverage and defense costs would be paid on top of that. Per Mr. Smith, including defense costs would place the defense attorney in a conflict of interest; the more he did to defend his client, the less money that would be available for the client (insured.)

Mr. Dick Brock, Kansas Insurance Department, said that currently defense costs are paid as supplementary payments but that there was a move by the Insurance Services Office last year to make a change. He said that it would place the insured in a precarious position, as he would not know how much of his coverage would be eaten up by defense costs. Having this regulation in the statutes would make it easier for the Insurance Department to disapprove a rate request by a company which seeks to practice this policy.

Mr. Larry Magill, Independent Insurance Agents of Kansas, said that the IIAK has a national policy against inclusion of defense costs within policy limits. He said, however, that it can be used as an option to provide a lower rate or to provide insurance for someone who might otherwise be uninsurable.

Per Mr. Brock and staff, adding "or renewed after the effective date of this act" after "issued" on Line 26 would clarify that it doesn't apply to existing policies. There would be no rate hike as this is current practice.

Final Action on: HB 2167 - General insurance code changes

Per staff, this bill would take the insurance statutes within Chapter 40 and amend those that affect life companies to make them applicable to other-than-life companies, also. Amendments suggested by the Kansas Insurance Department were to insert ",unfairly discriminatory," after "unreasonable" on Line 31, and to amend new language on pages 5, 12, and 14 to also apply to other-than-life companies.

Rep. Sawyer made a motion that the amendments be adopted; Rep. Neufeld seconded the motion. The motion carried.

Rep. King made a motion to recommend the bill favorably as amended; Rep. Harper seconded the motion. The motion carried.

Final action on: HB 2193 - motor vehicle liability insurance; proof of coverage

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,  
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Staff stated that testimony indicated the bill would not accomplish what was intended.

Rep. Neufeld made a motion to report the bill adversely; Rep. Gross seconded the motion. The motion carried. Rep. Sawyer asked to be recorded "no."

Discussion on: HB 2255 - professional liability insurance coverage for certain coroners

The Chairman stated that SB 36 was passed by the Senate Public Health and Welfare Committee. Per staff, it provides for an "exempt" license which doesn't require continuing education or participation in the Health Care Stabilization Fund. A consensus of the committee was that no action need be taken on HB 2255 at this time.

Final Action on: HB 2312 - Insurance; cancellation and nonrenewal of accident and sickness policies

Rep. Sawyer suggested the following amendments: (1) on page 15, extend the provision to all groups, not just those with 25 or more persons, and clarify that the person must join the group at its inception; (2) on page 17, strike all language on Line 122 following "if any"; and (3) on page 26, strike Section E.

Rep. Sawyer made a motion to adopt the amendments; Rep. Wells seconded the motion. The motion carried.

Rep. Sawyer made a motion to recommend the bill favorably; Rep. Cribbs seconded the motion.

Staff stated that there seem to be inconsistencies in Section 1, subsections A and D. Concern was expressed that there could be far-reaching complications, that there isn't time to delve into the concept as should be done.

Rep. Gross made a substitute motion that the bill be referred for an interim study; Rep. Beauchamp seconded the motion. The motion carried.

Final action on: HB 2403 - concerning driver training motor vehicles provided to school districts by motor vehicle dealers

The consensus of the committee was that the bill would exempt the dealer from carrying liability insurance but that there would be no way to completely exempt him from any liability.

Rep. Harper made a motion to recommend the bill favorably and to request that it be put on the consent calendar; Rep. Neufeld seconded the motion. The motion carried.

Final action on: HB 2484 - continuation of coverage under group hospital, medical and surgical contracts

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Rep. Cribbs made a motion to recommend the bill favorably; Rep. Neufeld seconded the motion. The motion carried.

Final action on: HB 2503 - Insurance; defense costs excluded from limits of coverage

Rep. Sawyer made a motion to amend the bill to make it applicable to policies issued or renewed after the bill takes effect; Rep. Schauf seconded the motion. The motion carried.

Rep. Cribbs made a motion to recommend the bill favorably as amended; Rep. Wells seconded the motion. The motion carried.

Hearing on: HB 2502 - recording and reporting of loss experience and the making of rates

No persons were present at any time during the meeting to give testimony for the bill; thus, no action was taken on it.

The meeting was adjourned at 5:00 p.m.



MEMORANDUM

March 5, 1987

TO: House Committee on Insurance

FROM: Kansas Legislative Research Department

RE: Subcommittee Recommendations on Substitute for  
House Bill No. 2109

Section 1. Extend provisions of bill to 25 or more municipalities of the same type (IIAK). Strike language requiring them to be members of same bona fide professional association which has been in existence for not less than five years (Subcommittee).

Section 2(e). ". . . \$250,000 for each of the following categories: (1) all property under article 9 except auto physical damage; (2) auto liability and physical damage; (3) workers' compensation and employers' liability; (4) all casualty under article 11 except (2) and (3) above." Delete cumulative requirement of \$1.5 million. Require notification of Commissioner within 30 days when coverage for any of the above categories falls below \$250,000 (Subcommittee).

Section 2(f). Do not add language about joint and several liability (Subcommittee). Add a sentence requiring that indemnity agreement shall be in a form acceptable to the Commissioner (IIAK).

Section 2(i). Add language requiring the confirmation of specific and aggregate excess insurance and adequate surplus funds, subject to the approval of the Commissioner. Add language requiring notification of Commissioner within 30 days of any change of specific or aggregate excess coverage (IIAK).

Section 2 -- Other Proposals. Do not require proof of payment of at least 25 percent by each member (Subcommittee). Add language outlining Commissioner's notification responsibility when disapproving a plan (IIAK).

Section 4(b). Commissioner may examine affairs, as well as financial condition of any pool. Strike "compliance with statutory provisions" and add "affairs" (KASB).

Section 5(a). Do not limit advance workers' compensation premium discounts to 15 percent of manual premium. Leave limit at 25 percent (Subcommittee). Add "for the pool" at end of last sentence (IIAK).

Section 5(c). Make refunds subject to approval of Commissioner (IIAK).

Section 8. Change first sentence to require tax be paid by August 31 (KASB).

House Insurance Committee  
March 5, 1987  
Att. 1

Section 9. Do not strike subsections (b) and (d) requiring that pools would be subject to assigned risk and excess lines provision (Subcommittee).

Section 10 (b). Add language requiring that Division of Worker's Compensation be notified, as well as the Commissioner, when member is cancelled or terminates coverages (Subcommittee). Add language making pools subject to mid-term cancellation and nonrenewal statutes (IIAK).

Section 11. Require that all trustees only be residents of the state, deleting requirements that they must be members of the governing body of the municipality that is a member of the pool (Subcommittee).

Section 12. "Any person soliciting the business of insurance for a group-funded pool shall hold a current license authorizing such person to sell each line of insurance offered for sale. In addition, any person licensed for the kinds of insurance offered by the pool shall be deemed to be certified by a company for the kinds of insurance permitted by the pool" (Subcommittee).

New Sections 13, 14, 15. Looping provisions back to Interlocal Cooperation Act and Tort Claims Act. Liability insurance pools under Tort Claims Act would be subject to provisions of this bill (IIAK).

New Section 16. Effective date changed to publication in Kansas Register (KASB).

H87-77/CC

HOUSE BILL NO. \_\_\_\_\_

By Committee on Insurance

AN ACT xxxx

Be it enacted by the Legislature of the State of Kansas:

Section 1. Twenty-five or more <sup>municipalities as defined in KSA</sup> ~~unified school districts,~~ <sup>75-610.</sup>  
~~community colleges, area vocational technical schools,~~  
~~educational service centers or educational interlocals, who are~~  
~~members of the same bona fide professional association, which has~~  
~~and who are the same or similar type of municipality~~  
~~been in existence for not less than five years~~ may enter into  
agreements to pool their liabilities for Kansas fire, marines,  
inland marines and allied lines, as defined in K.S.A. 40-901, and  
amendments thereto, and casualty, surety and fidelity lines as  
defined in K.S.A. 40-1102, and amendments thereto, including  
workers' compensation and employers liability. Such pools shall  
not include accident, health or life insurance. Such  
arrangements shall be known as group-funded 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.

Sec. 2. 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) 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) 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) An individual application for each initial member of the pool.

(e) Evidence that the annual Kansas gross premium of the pool will be not less than \$250,000, for each ~~line of insurance~~ <sup>of the following categories:</sup> ~~or a cumulative annual gross premium of not less than \$1,500,000 for all lines of insurance.~~ The annual Kansas gross premium shall be based upon the authorized rates as filed by the national council of compensation insurance for workers' compensation and 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. <sup>The pool shall notify the</sup>

*Commissioner within 30 days if the KS gross premium is < \$250,000 for any of the above categories.*

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

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

(h) A copy of the procedures adopted by the pool to provide claims adjusting and accumulation of income and expense and loss data.

(i) A confirmation of specific and aggregate excess insurance, or adequate surplus funds in the pool. <sup>Subject to Commissioner's approval</sup> Also 30 day notification of changes <sup>(see memo)</sup>

*(j) Commissioner's duty to notify disapproved plan. (See memo) K → (j) Any other relevant factors the commissioner may deem necessary.*

Sec. 3. Every group-funded 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.

Sec. 4. (a) All certificates granted hereunder shall be perpetual unless sooner suspended or revoked by the commissioner.

(b) Whenever the commissioner shall deem it necessary the commissioner may make, or direct to be made, an examination of the <sup>affairs or</sup> financial condition of any pool, except that once every five years the commissioner shall conduct an examination of the <sup>affairs</sup> ~~compliance with statutory provisions~~ and the financial condition of each pool. Each pool shall submit a certified independent audited financial statement on or before August 31 of each year. The financial statement shall include outstanding reserves for claims and for claims incurred but not reported. Each pool shall file reports as to income, expenses and loss data 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 ability to pay current and future claims 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, 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 ability to pay current and future claims 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 thereof shall apply to group-funded pools.

Sec. 5. (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 25% of manual premium. The pool must use rules, classifications and rates as promulgated by the national council on compensation insurance 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 *for the pool.*

(b) An amount equal to at least 70% of the annual premium shall be maintained in the designated depository for the purpose of paying claims in a claims fund account. The remaining annual premium shall be placed into a designated depository for the payment of taxes, fees and administrative costs in an administrative fund account.

(c) Any surplus moneys for a fund year in excess of the amount necessary to fulfill all obligations of the pool 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. <sup>upon approval of the Commissioner</sup> The ~~trustees~~ *Such approval can be obtained only upon satisfactory evidence* shall ~~determine~~ that sufficient funds remain on deposit for the payment of all outstanding claims and expenses, including

incurred but not reported claims prior to authorizing any refunds. 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.

Sec. 6. The trustees shall not utilize any of the moneys collected as premiums for any purpose unrelated to 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 located in Kansas; or in shares or savings deposits in a federally insured savings and loan association located in Kansas.

Sec. 7. The expense of the administration of the group-funded 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 pools fee fund. All amounts which are required to be paid from the group-funded pools fee fund for the operating expenditures incident to the administration of the group-funded pools shall be paid from the group-funded pools fee fund. The commissioner of insurance shall be responsible for administering the group-funded pools fee fund and all payments from the fund shall be upon warrants of the director of accounts and reports 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 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 pools of the amount of each assessment imposed under this subsection on such group-funded 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 pools fee fund.

Sec. 8. In addition to the fees required to be paid in section 7, and as a condition precedent to the continuation of the certificate of authority provided in this act, all group-funded pools shall pay a tax annually on or before August 31 upon the annual Kansas gross premium ~~based upon the manual rates in effect at the date of renewal pursuant to subsection (c) of section 5~~ at the rate of 1% per annum applied to the collective premium of the pool for the preceding fiscal 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 (i) of section 2.

Sec. 9. (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 insurance is provided by the pool, the pool shall be subject to the provisions of K.S.A. 40-2102, and amendments thereto. If workmen's compensation or employer's liability insurance, or both, are provided by the pool, the pool shall be subject to the provisions of K.S.A. 40-2109, and amendments thereto.

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

(d) Each licensed pool shall be subject to the provisions of 40-246b to 40-246e, inclusive, and amendments thereto.

Sec. 10. (a) After the inception date of the group-funded 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 shall take 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 <sup>and the division of workers' compensation</sup> 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, <sup>subject to the provisions of KSA 40-2,120 and KSA 40-2,121.</sup>

Sec. 11. To ensure the financial stability of the operations of each group-funded 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 appoints 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 shall be residents of this state. ~~and a member on the board of education of a school district, board of control of any area vocational technical school or board of trustees of any community college that is a member of the pool.~~ 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 administrator shall file evidence of the bond with the commissioner. The bond shall be 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 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. All administrative costs and other disbursements shall be made from the administrative fund account. The administrator of the pool may 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.

(c) Audit the accounts and records of the pool annually or at any time as required. The <sup>Commissioner</sup>~~trustees~~ shall prescribe the type of audits and a uniform accounting system for use by pool and service agents to determine the 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.

(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 shall not be effective without a formal resolution passed by the trustees.

Sec. 12. Any person soliciting the business of insurance for a group-funded pool ~~shall be a regularly paid employee of the pool and~~ shall hold a current license authorizing such person to sell each line of insurance offered for sale. *In addition, any person licensed offered by the pool shall be deemed to be certified by a company for the kinds of insurance permitted by the pool.*

~~Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.~~



~~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

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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~~ *participate in a group-funded pool or any other insurance-pooling arrangement* 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~~ *Kansas Register*.

## 75-6111 STATE DEPARTMENTS; PUBLIC OFFICERS, EMPLOYEES

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.

Any periodic and payable ment shall co Any judgment shall specify amount of ea tween payme ments to be Judgments p shall bear in 16-204, and a cause shown. judgment wi such payment to be made c ments, but t awarded by subject to m periodic paym over a perio (b) A cour only if the cc (1) Payme tally covered tained theref (2) funds f other funds o fully may be insufficient t budget of exp payment of th covered by ir

History: L

Law Review and

"Constitutiona ute Violates Equ Tumpike Author (1980).

"The Kansas T Susan C. Jacobs

### 75-6113.

judgments or palities, sour ments, comp which a mun this act may moneys of the may be utiliz municipality taxes upon p made from n suance of no- gation bonds serially at suc by not more t issued under

Section 2 (j)

(j) ~~(h)~~ After evaluating the application the commissioner shall notify the applicant ~~that~~ 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.