Approved April 8, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Senator Don Montgomery at
Chairperson

9:08 a.m./~~p.m.~~ XXX on April 1, , 1987 in room 531-N of the Capitol.

All members were present except:

Committee staff present: Arden Ensley, Theresa Kiernan, Emalene Correll and Lila McClaflin

Conferees appearing before the committee:

Bill Curtis, Kansas Association of School Boards
Larry MaGill, Independent Insurance Agents of Kansas
Jim Seaman, Kansas Public Interlocal Risk Services and Star Pool
Chip Wheelen, Pete McGill and Associates, Representing Kansas Legislative Policy Group
Ernie Mosher, The Kansas League of Municipalities
Representative Ivan Sand, 66th District, Riley, Ks.
Gerry Ray, Johnson County Commissioners
Bev Bradley, Kansas Association of Counties
Scott Beeler, General Counsel, for a Rural Water District in Johnson County
Dennis Schwartz, Kansas Rural Water Association
Patti Armstrong, Johnson County Water District #3, Lenexa
Don Seifert, Representing Marylin Swartley, Mayor City of Olathe, Ks.
Jim Kaup, The Kansas League of Municipalities
John C. Magnuson, Chairman of the Board of County Commissioners, McPherson, Ks.

The Chairman opened the hearings. He stated Substitute for H.B. 2109 has been amended into S.B. 250 on the House side and they would be working Sub. for S.B.250. The Committee would hear testimony on Sub. H.B. 2109 but it would not be worked this year. Jim Seaman was introduced and gave testimony.

Mr. Seaman stated they provide liability insurance for some Kansas School Boards and some Kansas Police Departments. His company opposes Sub. for H.B. 2109. They have some 30 or 40 oustanding agreements with Kansas Public Interlocal groups at the present.

Larry MaGill spoke in support of Sub. for H.B. 2109. He presented an article from Business Insurance and general liability insurance figures (ATTACHMENT I)

Bill Curtis stated even though they support the bill, they feel several amendments are necessary. (ATTACHMENT II)

Chip Wheelen representing an organization of rural county commissioners, stated in general they support S.B. 250 and oppose Sub. for H.B. 2109. If enacted, this bill would generally treat local governments risk management cooperations as if they were regulated insurance companies. (ATTACHMENT III)

Ernie Mosher stated the League agreed with Mr. Wheelen's statement and opposed Sub. for H.B. 2109.

H.B. 2394 - Concerning county extension programs. The Chairment called on Staff to present the amendments which had been requested. The balloon of the bill is (ATTACHMENT IV).

There was discussion concerning the August date for filing the proposed budget.

Rep. Ivan Sand stated he was in agreement with the amendments and he had checked with the Kansas Assn. of Counties and they did not disagree with them. He thought July 15 or August 1, either date would work.

Senator Mulich moved to amend line 29, striking August 1, and inserting "July 1", and the amendment be adopted. The motion was seconded by Senator Langworthy. The motion carried.

Senator Ehrlich moved H.B. 2394 be passed as amended. The motion was seconded by Senator Salisbury. A substitute motion was made by Senator Winter to amended the bill and require the proposed educational program and economic development districts first be approved by the Department of Commerce. The motion died for lack of a second. The question was called for and the motion carried.

The Chairman referred to H.B. 2152 - concerning Boards of County Commissioners; relating to the powers and duties and raises the contract amount for requiring competitive bidding from $500 to $5,000 dollars. He called on Gerry Ray to testify.

Ms. Ray stated Johnson County had requested this change because the requirements contained in the existing statutes are restrictive and rather out of date with respect to currently accepted bidding procedures and road improvement cost today. She asked that the Committee consider amending the bill to return to $10,000 the requirement for full competitive bidding procedures. (ATTACHMENT V) She responded to questions.

Chip Wheelen testified the organization of rural county commissioners support H.B. 2152 as amended by the House. It gives a little more authority to local elected officals who are conducting counties affairs. (ATTACHMENT VI)

Bev Bradley testified in support of H.B. 2152, this bill would be very helpful for several of the larger counties. (ATTACHMENT VII)

The Chairman referred to H.B. 2480 - concerning water districts and relating to land annexed by cities. Scott Beeler was called on to present his testimony.

Mr. Beeler presented Senate Substitute for H.B. 2480 (ATTACHMENT VIII). He pointed out why the Sub. bill should be adopted. He stated it would have no negative affect upon the ability of a city to annex land served by rural water districts. It does have protection for the rural water districts. (ATTACHMENT IX)

Dennis Schwartz expressed support for H.B. 2480. There is simply no logical rationale for Kansas statutes to dictate that the annexing city shall take over the service area of a rural water district. H.B. 2480 would allow the water district some voice. (ATTACHMENT X)

Patti Armstrong urged the Committee to suport Senate Sub. for H.B. 2480.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,

room 531-N, Statehouse, at 9:08 a.m./p.m. on April 1, 1987

Don Seifert spoke in opposition to H.B. 2480. He urged the Committee to see the bill went no further. (ATTACHMENT XI)

Jim Kaup stated they could probably favor H.B. 2480 as written. But not the substitute that was submitted by Mr. Beeler. It is a little late in the session to make such major changes. The compensation would be changed drastically with the substitute bill and they would need a copy of the bill and time to study it.

H.B. 2507 - Relating to certain fire districts dealing with the operation of ambulance services.

John Magnuson requested the Committee support H.B. 2507. It would insure that their county (McPherson) could continue to operate their volunteer ambulance service and not violate the statutes. (ATTACHMENT XII)

Senator Steineger stated he thought Senator Hayden had a companion bill for a county in his area. He suggested perhaps the statutes should be changed to cover all counties except those with metropolitan ambulance services.

The Chairman called attention to H.B. 2357 regarding the Topeka improvement district. Staff presented a balloon of the bill and brief the Committee on the amendments. (ATTACHMENT XIII) Staff stated the amendments had been checked with Austin Nothern, Chairman of the Topeka Improvement District, and Mr. Nothern did not objected to them.

Senator Salisbury moved H.B. 2357 be passed as amended. The motion was seconded by Senator Winter. The motion carried.

The meeting adjourned at 10:01 a.m., next meeting will be April 2, 1987.

Don Montgomery

Chairman, Senator Don Montgomery

Date: April 1, 1987

GUEST REGISTER

SENATE

LOCAL GOVERNMENT

NAME	ORGANIZATION	ADDRESS
DAN GROVER	Jo. Co. WATER Dist. 5	P.O. Box 22 OLATHE
Lora Harrison	PENCo	3601 SW 29th - #243 Topeka, KS.
DALE McDANIEL	Jo. Co. WATER DIST. 3	P.O. Box 276, Olathe, Ks. 66061
PATTI ARMSTRONG	Jo. Co Water Dist #3	21301 Bittersweet Dr. Leawood 66220
Rita Mathews	Ks Rural Water State Brd. Jeff Co Water Dist #13	RR#1 Box 64 McLouth, Ks 66054
Dennis Schwartz	S/N Rural Water #8 Ks Rural Water State Brd.	Tecumseh, Kansas
~~Gerry Ray~~	Johnson Co Comm	Olathe, Ks
DON SEIFERT	CITY OF OLATHE	Box 768 Olathe, Ks. 66061
~~JOHN C MACNUSON~~	McPHERSON COUNTY COMMISSION CHAIRMAN	P.O. Box 626 McPHERSON, KS 67460
BEN BRADLEY	KS Association of Counties	Topeka
[illegible]	League of Ks Municipalities	[illegible]
Jim Kaup	League of Municipalities	Topeka
KAREN XXCCIAIN	KS. Assn. of REALTORS	TOPEKA
Harold Main	Sn Co Intergov Coord	Topeka

EBRUARY 16, 1987

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update

MIG debtholders offer $50 million capital infusion

LOS ANGELES—Mission Insurance Group Inc. debtholders are willing to infuse an estimated $50 million into Mission American Insurance Co. in an attempt to remove the insurer from state conservatorship.

Discussions concerning the infusion will continue between the debtholders—led by investor Martin J. Whitman of M.J. Whitman &

Continued on next page

Godsend or gamble?

Critics question security of municipal program

By DOUGLAS McLEOD

LIVONIA, Mich.—A huge municipal self-insurance program in Michigan—serving 252 public entities and collecting an estimated $25 million in member contributions this year—is praised as a godsend by most of its members, but is criticized as potentially shaky by some competitors and consultants.

For many cities and counties in the state, the Michigan Municipal Risk Management Authority has been the best answer to the seemingly insoluble problem of finding municipal liability insurance.

While commercial insurers have abandoned the Michigan municipal market or imposed severe coverage restrictions and huge rate increases, MMRMA has filled the void with broad coverages, policy limits far higher than those available elsewhere and—in many cases—lower premiums than those quoted by competitors.

Some municipalities have no real alternative and MMRMA—formed in 1980—is not just the best, but the only practical choice, since coverage written by commercial insurers is too restrictive or too expensive and municipalities are afraid to fully self-insure.

Members generally praise the program, reporting no problems with claims handling and little concern with the way MMRMA is managed.

However, several critics—including insurance consultants, rival agents and even some MMRMA members—express concerns about the program, including:

- The extent to which MMRMA retains risk. MMRMA provides limits of up to $10 million per occurrence with no aggregate in excess of the typical member's self-insured retention of $50,000 per occurrence.

During MMRMA's 1984-85 fiscal year, all risk excess of members' self-insured retentions was ceded to commercial reinsurers.

Since then, however, MMRMA has itself assumed portions of each of the four layers comprising the reinsurance program and currently self-insures about 47% of the $10 million limit above members' retentions.

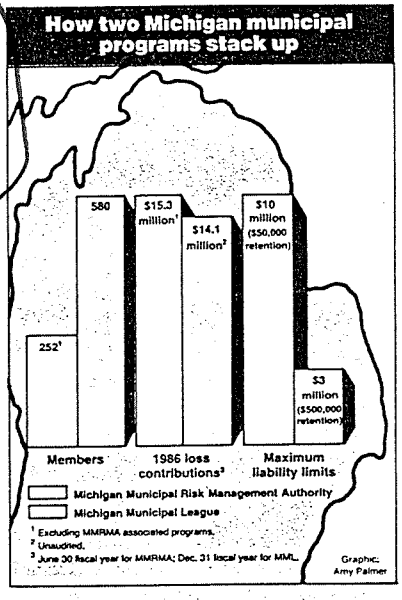
- The reliability of MMRMA's loss statistics and the adequacy of its reserves for incurred-but-not-reported losses.

For the 1985-86 fiscal year, MMRMA set aside $594,727—or about 3.9% of total member loss contributions of $15.1 million—to cover IBNR claims within the members' retentions. (Loss contributions are the equivalent of gross written premiums, and are used to fund loss within a member's retention; to purchase commercial reinsurance and fund the self-insured portions of the reinsurance program; and to cover MMRMA's expenses.)

- The scope of the commercial reinsurance coverage. Portions of the commercial reinsurance program may carry exclusions and coverage restrictions of which some MMRMA board members—officials of participating municipalities—are unaware. The exclusions were found in reinsurance documents obtained by *Business Insurance* and interviews with participating reinsurers.

MMRMA officials maintain that several such restrictions—including a sunset clause that phases out reinsurance coverage after three years—have not actually been agreed to, though reinsurance cover notes obtained by *Business Insurance* include the restrictions and one reinsurer confirms that the restrictions are part of the terms of at least one of MMRMA's four reinsurance layers.

- Discrepancies in the explanations by various MMRMA representatives of how the program works.



- The adequacy of MMRMA's underwriting practices. Rival agents accuse MMRMA of issuing "lowball" quotations with little underwriting information.

In the course of a nine-month investigation, *Business Insurance* has also learned that at various times between 1984 and the present, portions of the reinsurance covering MMRMA and three sister liability insurance programs were retroceded to an offshore reinsurer owned by several individuals involved in servicing MMRMA. One of these is Wade Waterman, president and owner of Governmental Risk Managers Inc., MMRMA's management company.

MMRMA's retrocessions to Bermuda-based Cove Marine Insurance Co. Ltd. were not disclosed to the program's directors, Mr. Waterman said.

The MMRMA board had previously decided against using Cove as a direct reinsurer because it would not have "looked right," according to Gerald Buckless, county representative for Livingston County and an MMRMA director.

Upon learning that Cove was used as a retrocessionaire, Mr. Buckless expressed surprise, but he did not accuse Mr. Waterman of any wrongdoing.

Mr. Waterman—who is responsible for arranging the MMRMA's reinsurance along with broker Stewart Smith Intermediaries Inc. in New York—denied any conflict of interest in using Cove Marine, explaining that Cove was used only as a stop-gap measure while other reinsurance was sought (see story, page 69).

Mr. Waterman and MMRMA directors also dismiss the other doubts voiced by the program's detractors, maintaining that MMRMA's reserves are adequate and that its participation in the reinsurance program is fiscally sound.

MMRMA's loss experience is better than that of commercial municipal liability insurers, in part because of extensive risk management efforts and incident reporting procedures that alert MMRMA early to the existence of

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IEA syndicates cease writing until March 1

By DOUGLAS McLEOD

MIAMI—Syndicates on the Insurance Exchange of the Americas will not write any direct insurance or reinsurance business for the remainder of the month, while exchange and regulatory officials assess the impact on several syndicates of a number of loss-ridden reinsurance treaties.

At the urging of Florida Insurance Commissioner Bill Gunter, the IEA board of governors voted last week to stop writing all new and renewal business until March 1.

The exchange's board earlier this month had voted to discontinue only assumed treaty reinsurance underwriting (*BI*, Feb. 9).

Meanwhile, a Florida state judge has ordered four syndicates managed by Daum Management Inc. to show cause why they should not be placed in court-supervised rehabilitation.

Three of the syndicates—Syndicate One Inc., Syndicate Two Inc. and Syndicate Three Inc.—had earlier been ordered into rehabilitation by the exchange board.

The Florida Insurance Department, however, filed petitions for court-supervised rehabilitation for the three syndicates, as well as for Syndicate Four Inc., also managed by Daum.

Syndicates One, Two and Three may be insolvent by as

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Congress expected to act on Medicare

By JERRY GEISEL

WASHINGTON—With support coming from all parts of the political spectrum, Congress is virtually certain to pass legislation this session to protect retirees from catastrophic health care bills, experts say.

Congressional passage of an expanded Medicare program to reduce the vulnerability of the elderly to enormous medical and hospital bills is "as close to a slam-dunk in the legislative process as you ever will see," says Rep. Fortney (Pete) Stark, D-Calif.

Increasing Medicare benefits would be advantageous to many employers since their retiree health care costs would presumably be lowered if Medicare pays a larger share of retiree medical bills.

However, some benefit observers note that employers could wind up footing part of the cost required to expand the Medicare program, while others note that enactment of Medicare legislation could focus congressional attention on other health care proposals that are opposed by employers.

In recent weeks, congressmen and Reagan administration officials have been almost tripping over one another unveiling and crafting catastrophic retiree health care proposals.

For example, Rep. Stark, chairman of the House Ways and Means Health subcommittee, and ranking minority member Rep. Willis Gradison, R-Ohio, will introduce legislation later this month to expand Medicare so that a beneficiary's annual

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MMRMA

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potential claims, Mr. Waterman contends.

While MMRMA quickly tries to settle claims for which members feel they are clearly liable, the program's lawyers aggressively contest claims and lawsuits that are considered meritless, he added.

The program's largest loss to date—a $706,064 settlement of a wrongful death claim—was paid so quickly that MMRMA did not have time to notify reinsurers that its settlement offer had been accepted, Mr. Waterman said.

The settlement prompted the program's lead reinsurer, Munich Reinsurance Co., to audit MMRMA claim files to see if other potentially large losses existed, he said, adding that Munich Re was satisfied with the audit and later renewed its participation on the program.

Officials at Munich Re could not be reached to confirm t[illegible]udit.

Camelback Reinsurance Underwriters Inc., underwriting manager for Imperial Casualty & Indemnity Co., audited MMRMA claim files and procedures last year and found no significant problems, a Camelback official said.

Home Reinsurance Co. also is in the process of conducting an audit, a Home Re official confirmed.

"There is always going to be some difference as to what the proper amount" should be for loss reserves, Mr. Buckless observed. "I would say overall that we have had good reserving. It's an area where you have to be constantly vigilant.

"As our loss funds and reserves have built up, we felt we could prudently retain more of the risk," he added, explaining the decision to self-insure portions of MMRMA's reinsurance layers instead of buying more commercial reinsurance.

"We kind of held our breath a little at first," said Mr. Buckless, whose county was one of MMRMA's three original members. "The concept was great, but it still had to prove itself. But we have been very happy with the results."

"I really have not heard any complaints that I can think of. It seems like they have a very good record of customer satisfaction," said Kenneth E. Beres, a consultant with The Wyatt Co. in Detroit, who has recommended the MMRMA program to several municipalities.

In answering the program's critics, Mr. Waterman pointed to the exodus from the Michigan municipal market of several commercial insurers and the insolvency of others, including Transit Casualty Co., Ideal Mutual Insurance Co. and Mission Insurance Co.

"The reason we have been successful is (that) the industry has not done its job," Mr. Waterman said. "If the industry had never had a failure, if they had taken a reasonable attitude, I probably would not b[illegible]s business.

"I don't hav[illegible]e best program in the world," he added. "I wish it were better. I wish my reinsurance were better, that the terms and conditions were better. (But) I think I have a better program than what else is available."

Although some consultants have questioned MMRMA's operations, Mr. Waterman traces much of the criticism of the program to independent agents, many of whom lost municipal accounts to MMRMA as the commercial insurance market tightened.

"I think the biggest reason the agents hate me is that I don't use them. We did not use the independent agency system," Mr. Waterman said.

The MMRMA program is marketed through a group of exclusive representatives known as "regional risk managers," Mr. Waterman explained.

Some agents are clearly outspoken in their attacks on program.

"If he is doing what he says he is doing, it's the second coming of Christ. It's a miracle," charged Howard B. Camden, president of Advanced Underwriters Inc., an agency based in the Detroit suburb of Farmington Hills.

However, MMRMA is not the only target of the agents' attacks in what Mr. Beres described as a "range war" in the Michigan municipal insurance market.

In a newsletter last July, the Michigan Municipal League—which sponsors its own property/casualty self-insurance pool as a competitor to MMRMA—complained that independent agents were spreading "unfounded rumors" about the financial condition of the MML pool.

Indeed, some of the agents' charges against MMRMA also are unfounded. Some rival agents, for example, questioned whether MMRMA actually had any of the commercial reinsurance it claimed to have. But several of the program's reinsurers, contacted by *Business Insurance*, confirmed their participations (see story, page 65).

The suspicions of MMRMA's critics have been fueled in part by the tight control the program's directors and managers keep on reinsurance, financial and other information.

MMRMA members are not given copies of reinsurance treaties or cover notes and must visit the offices of Governmental Risk Managers in Livonia, another Detroit suburb, if they wish to review the documents.

MMRMA's directors voted two years ago to bar the program's representatives from releasing any reinsurance information to consultants without the board's permission, according to Mr. Waterman.

The MML pool also does not give members copies of its reinsurance documents, but it will allow consultants to review the documents in the presence of their clients, according to Eugene Berrodin, MML's director of insurance services.

Richard L. Beeckman, a Saginaw-based consultant hired to review MMRMA for Washtenaw County and the city of Ann Arbor, learned how hard it could be to get information. After several requests for evidence of MMRMA's commercial reinsurance coverage, Mr. Beeckman said he was given a typewritten list of the reinsurers on plain paper on condition that he not reveal the names to anyone, including his clients.

Business Insurance encountered similar problems. During an interview at his office last year, Mr. Waterman offered another typewritten list of reinsurers as evidence of the program's current participants. But, after *Business Insurance* started contacting some of the reinsurers to confirm their participation, MMRMA's broker, Stewart Smith, instructed the reinsurers not to discuss the program and to refer questions to Mr. Waterman, reinsurers say.

Mr. Waterman later offered to allow a reporter to review reinsurance documents at Stewart Smith's New York office on the condition that none of the information be used in this story.

Over the last two years, MMRMA representatives have also distributed lists of reinsurers that contained deliberate errors ranging from simple misspellings of reinsurance company names to the inclusion of reinsurers that were not actually participating on the program, according to Mr. Waterman, who said this was done at the MMRMA board's direction.

The list Mr. Waterman showed to *Business Insurance* during the interview—which was later found to include names of reinsurers that were not writing the program—

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was one of the deliberately incorrect lists, Mr. Waterman confirmed.

The erroneous lists were not meant to deceive, Mr. Waterman said, but to track down the source of leaks about the program's operations. If a list containing a particular error were found circulating among competitors, he explained, MMRMA managers would know which member had released the list.

One member who was leaking the lists along with financial and loss information was recently identified and measures were taken against further leaks, according to Mr. Waterman, who said the member did not leave the program.

Mr. Waterman and MMRMA's directors, long beleaguered by agents' criticism of the MMRMA program, defend the tight lid on information by saying that such details could be used by rivals to damage MMRMA.

"To the outside, it may look like we are being a little protective," Mr. Buckless observed. But "there comes a point when you get tired of having to prove that what you are doing is right."

"We have been shot at from every direction it's feasible to shoot at an organization, and that has been going on since 1981," added Robert Deadman, city manager for the Detroit suburb of Farmington and an MMRMA director.

However, Mr. Beeckman said he was frustrated by his inability to get reinsurance and other information from the MMRMA's representatives.

"Continuous delays and the confusion regarding when or if certain pieces of information could be or would be provided created an atmosphere of uncertainty" about the program, concluded Mr. Beeckman in a report last November in which he advised his clients against joining the MMRMA.

Michigan Assistant Attorney General Harry Iwasko said he is also concerned by the shortage of information about the program in light of the accusations leveled against it by competitors.

MMRMA—like the MML pool—operates under a Michigan statute that exempts it from regulation by the state Insurance Bureau and that requires only the filing of an annual audited financial statement with the state Treasury Department.

"They are not only self-insured, they are self-regulating as well, and that is very scary to me," Mr. Iwasko said.

He added that he doesn't know enough about the program to assess its stability and has no way of getting the information unless it is voluntarily provided by MMRMA. He said he has never asked for such information.

"If it is being soundly run. . .and is soundly reserved, it's a gold mine," Mr. Iwasko said. "If it isn't, it's a ditch."

MMRMA members "would literally have nowhere to go" if MMRMA ran out of money to pay claims, said Mr. Beeckman, noting that MMRMA—like the competing Municipal League pool—is not covered by the state property/casualty guaranty fund, which covers claims against insolvent licensed insurers.

"They would literally be self-insured. . .and they would have to go to their constituents to raise the money," Mr. Beeckman said, explaining that municipal officials might have to raise property owners' taxes to fund such uninsured losses.

If MMRMA ran out of funds, public entities could attempt to receive assistance from the state's general fund, said Dale Larson, senior vp with Corroon & Black of Michigan Inc. If they v[illegible]able to do that, he added, [illegible]RMA members would have to post judgment bonds funded by tax revenues to cover liability awards.

Caught between the program's boosters and its critics are city, county and township officials who have seen commercial insurance coverage dry up and are uncertain what the future will bring.

"We are a city like many others that feels like we really do not have any choice," said Karen Harlick, finance director for the city of Ferndale, another Detroit suburb and an MMRMA member.

"The insurance market in Michigan was such that we just could not afford the premiums being charged," Ms. Harlick said. "We were a city that was not in a position to decide where we would get our insurance."

Ms. Harlick said that she had "great reservations" about joining MMRMA in 1985 because of questions raised about the stability of the program by a competing agent. Nevertheless, Ferndale became an MMRMA member when the agent told city officials to prepare for a possible 400% premium increase and the elimination of police professional liability coverage, she said.

So far, she added, the city's experience with the MMRMA has been good.

But "how well they have us protected in the event of a catastrophe, I don't know," she said.

The MMRMA program

MMRMA operates under Michigan's Public Act 138, legislation originally supported by the Municipal League that provides for the formation of municipal self-insurance pools.

Governmental Risk Managers provides underwriting and risk management services, while accounting services are provided by the Southfield-based firm of Quenneville & McSweeney; claims adjusting se[illegible] by Municipal Claims Servi[illegible], Livonia; and legal services by the Livonia firm of Cummings, McClorey, Davis & Acho.

Reserves for MMRMA claims are initially set by Municipal Claims Service, but these reserves may be changed by attorneys at Cummings, McClorey after review of the files, according to Bernard P. McClorey, a partner with the firm.

The coverage document issued to MMRMA members, known as a "joint exercise of powers agreement," provides:

- General liability coverage, including law enforcement liability, public officials errors and omissions, medical malpractice coverage for paramedics and emergency medical service personnel and motor vehicle liability coverage.
- Property coverage for real and personal property, including extra-expense, money and securities, fidelity and surety coverages. Property reinsurance is placed to whatever limits are required excess of a member's retention of 10% of the first $100,000 of loss after a $1,000 deductible.
- Vehicle physical damage coverage with limits of $500,000 per vehicle excess of a $10,000 retention and $1 million per disaster excess of a $30,000 retention.

Unlike members of the Municipal League pool—which share risks within the pool's $500,000 retention—MMRMA members do not actually share risks.

A portion of each MMRMA member's loss contribution is reserved—and separately accounted for—to cover losses within the member's retention. No member is responsible for the losses suffered by any other member within the other member's retention.

If losses within a member's retention exhaust its "net contribution account"—which is a member's loss contribution less expenses and ceded reinsurance

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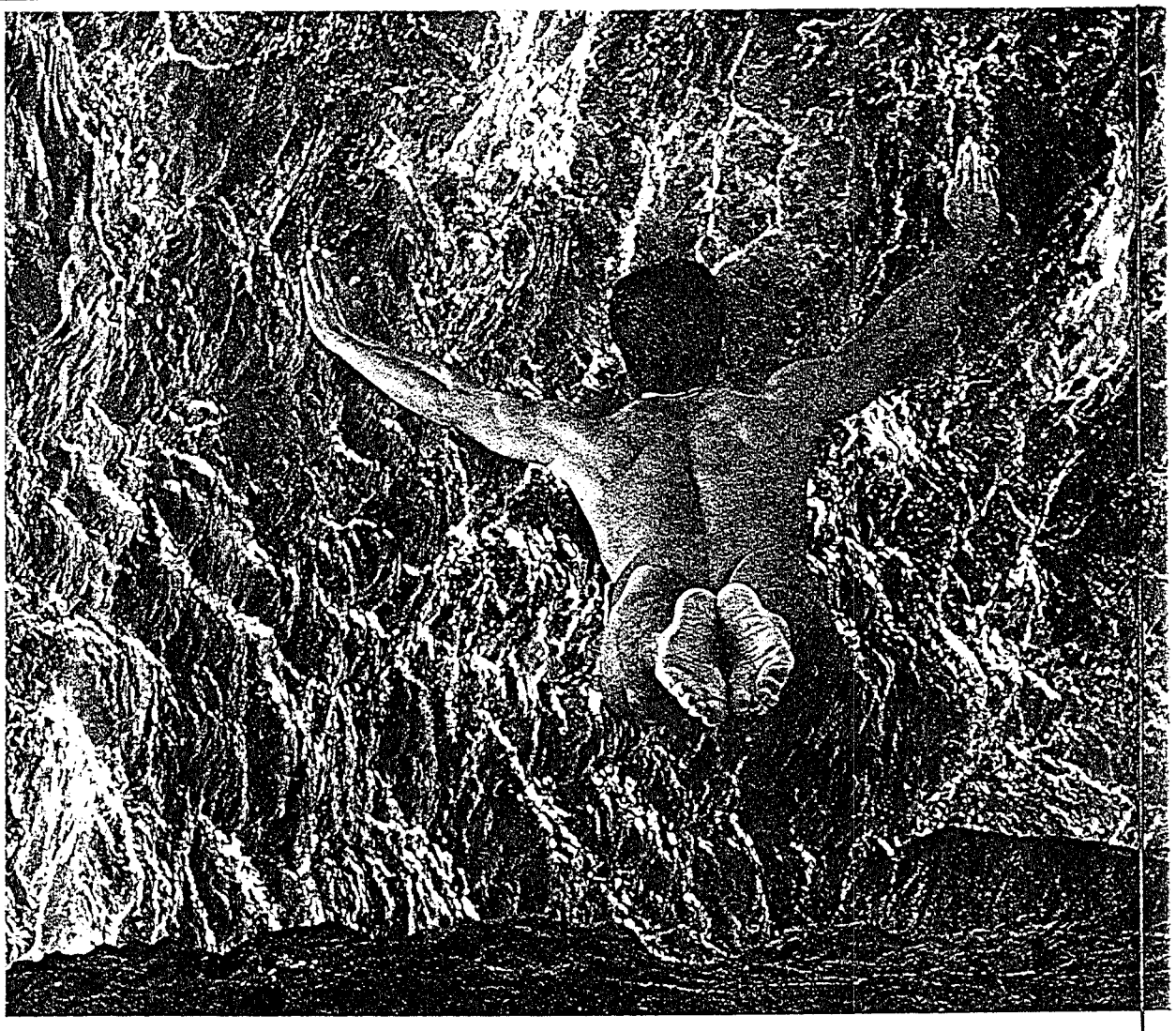

JUDGMEN

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premiums—the member must cover any shortfall in the account.

Twenty MMRMA members had negative fund balances as of last June 30, while other members had fund balances ranging from $1,529 to $430,565.

MMRMA also offers each member stop-loss reinsurance coverage to limit the losses paid within the retention in any one year.

For example, if a member's per-occurrence retention on the liability program were $50,000, MMRMA might provide stop-loss coverage attaching after the member pays $75,000 in losses in a single year.

This stop-loss coverage is also self-funded by MMRMA members, who pay an additional 5% of their total member contributions into a stop-loss fund, Mr. Waterman said.

As required by Public Act 138, MMRMA also maintains a commercially reinsured aggregate stop-loss contract with a $5 million limit of liability, attaching after exhaustion of the total funds available in MMRMA to pay claims in any one year, Mr. Waterman said. The total funds available to MMRMA to pay claims—including members' fund balances and all loss and expense reserves—amounted to $13.5 million at Dec. 31, 1986, according to Mr. Waterman.

The aggregate reinsurance is retrospectively rated so that reinsurers collect $1 in premium for every 70 cents of [illegible]aid, he said.

(Several larger MMRMA members have retentions higher than the standard $50,000 for liability risks. In addition, several smaller entities—including townships, community mental health facilities, housing authorities and transit authorities—are part of a subprogram known as the Statewide Pool, whose members do share risks within their retention. The Statewide Pool is treated as a single member of the larger MMRMA.)

For the liability program, MMRMA then purchases reinsurance excess of members' retentions up to $10 million per occurrence. The commercial reinsurance is paid for from members' loss contributions not allocated to funding losses within each member's retention.

All MMRMA members buy the full $10 million in liability limits and nearly all purchase all of the coverages offered by MMRMA.

Member loss contributions also are used to fund the self-funded portions of MMRMA's four reinsurance layers, with MMRMA receiving payment as if it were a commercial reinsurer participating on the quota-share treaties, according to Mr. Waterman.

Several sister programs are also covered by the same reinsurance treaties—including MMRMA's self-insured participation—excess of $50,000, Mr. Waterman

Continued on next page

3 sister programs cover public entities

By DOUGLAS McLEOD

LIVONIA, Mich.—Operating alongside the Michigan Municipal Risk Management Authority are three sister programs that provide property and liability coverages to various groups of public entities.

Each of the three programs is covered by the same liability reinsurance treaties covering MMRMA excess of $50,000 per occurrence. MMRMA itself acts as a reinsurer of the three programs for the portions of the reinsurance program that MMRMA self-funds, and members of each program pay MMRMA a portion of their loss contributions as if MMRMA were a commercial reinsurer.

The three programs also use some of the same service providers as MMRMA.

As with the larger MMRMA program, loss contributions to and claims against the three sister programs are separately accounted for by member, and members do not share risk.

The three programs also use some of the same service providers as MMRMA, including Cummings, McClorey, Davis & Acho for legal services and Municipal Claims Service for claims handling services.

Each of the three programs has its own board of directors and each program prepares its own financial statements separately from MMRMA.

The three programs are:

- The Michigan Township Participating Plan, with 804 current township members and member contributions of $4.4 million for the 15 months ended June 30, 1986. MTPP, started in April 1985, offers liability coverage limits of up to $10 million per occurrence, though less than 5% of its members buy the full limit and most opt instead for a $1.5 million limit, according to David P. Kensler, program administrator for MTPP.

The first $50,000 per occurrence of MTPP members' liability coverage is reinsured by Governmental Casualty Insurance Co., a licensed Ohio insurer formed last year by Wade Waterman, president of MMRMA's management company, and others connected to the MMRMA program, according to Mr. Kensler.

MTPP members typically carry deductibles of $1,000 on police professional liability, $5,000 on employee benefit liability and $250 on errors and omissions coverages, Mr. Kensler said.

- The Michigan Community College Risk Management Authority, with 16 community college members and about $504,000 in member contributions for the year ended June 30, 1986, according to Mr. Waterman.

Member contributions will probably total $2 million this year, he added.

Members of the college program, which was established in July 1985, all purchase liability coverage limits of $10 million per occurrence, Mr. Waterman said.

Members carry retentions of $10,000 per occurrence and $30,000 annual aggregate for liability risks, according to Mr. Waterman.

Universal Re-Insurance Co. Ltd. of Bermuda writes reinsurance of $40,000 excess of $10,000 per occurrence and $500,000 excess of $30,000 annual aggregate, he said. This coverage is 100% retroceded to Cove Marine Insurance Co. Ltd., another Bermuda reinsurer owned by Mr. Waterman and others, according to Mr. Waterman.

- The Michigan Road Commission Risk Management Authority, with 10 county road commission members that produced $449,767 in loss contributions for the year ended June 30.

Members of the road commission program purchase liability limits of $5 million including a $50,000 retention, Mr. Waterman said, adding that he doesn't expect much growth in the road commission program this year. ■

MMRMA

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said. These are the Michigan Township Participating Plan, with 804 township members; the Michigan Community College Risk Management Authority, with 16 college members; and the Michigan Road Commission Risk Management Authority, with 10 road commission members (see story, page 61).

Of the 250 MMRMA members, 25% are cities, producing 53% of the program's earned loss contributions; 24% are counties, producing 35% of contributions; 20% are townships, producing 8% of contributions; and 31% are other entities, producing 4% of contributions, according to an MMRMA [illegible]letter.

In all, the MMRMA family of programs has about 1,080 members.

Agents report that other insurers write municipal coverages in Michigan—including International Surplus Lines Insurance Co. through Arthur J. Gallagher & Co. and Great American Surplus Lines Insurance Co.—but that MMRMA and the MML pool have the majority of municipal business in the state.

MMRMA and its sister programs have reported explosive growth in the last two years, as commercial markets for municipal liability coverage have tightened.

Loss contributions to MMRMA totaled $15.3 million—including $203,933 in reinsurance premiums paid by MMRMA's sister programs—for the fiscal year ended June 30, 1986, nearly quadruple the $3.9 million reported in 1985. Loss contributions totaled $2.9 million in 1984, $2.2 million in 1983, $1.5 million in 1982 and $541,911 in 1981, according to the program's audited financial statements.

The MMRMA financial statements do not include the results for any of the sister programs.

MMRMA anticipates more than $25 million in loss contributions in the 1987 fiscal year, and the sister programs are projecting an additional $7.5 million in contributions, the MMRMA newsletter says.

By comparison, the MML liability and property pool, with about 580 members, reported loss contributions of $14.1 million for the year ended last Dec. 31, up from $4.9 million in 1985, according to Mr. Berrodin.

The MML pool provides total liability coverage limits of $3 million, with the $2.5 million excess of $500,000 portion reinsured. The only self-funding in the MML reinsurance program is a $500,000 per-occurrence participation in the $1 million excess of $2 million layer by NLC Mutual Insurance Co., a Tennessee-based captive that reinsures municipal property/casualty insurance programs in several states, says Mr. Berrodin.

As MMRMA has grown, however, the questioning and criticism of the program by competitors and some consultants has intensified.

Increased self-funding

In his report to Washtenaw County and Ann Arbor, Mr. Beeckman cited increasing levels of self-insurance by the MMRMA as a principal reason for recommending against the program.

Mr. Waterman confirmed that since its July 1, 1986, liability reinsurance renewal, the MMRMA has self-insured:

- 14.4% of the first reinsurance layer of $450,000 excess of $50,000.
- 25% of the second layer of $500,000 excess of $500,000.
- 50% of the third layer of $4 million excess of $1 million.
- 50% of the fourth layer of $5 million excess of $5 million.

On a $10 million loss, MMRMA currently would be responsible for paying about $4.7 million excess of a member's retention.

During the previous fiscal year, MMRMA had self-funded 22% of the first layer, 15% of the third layer and 25% of the top layer, according to its audited financial statement. The year before that, all of the program's liability reinsurance was placed with U.S. and foreign reinsurers and none was self-funded, according to cover notes obtained by *Business Insurance* and subsequently confirmed by Mr. Waterman.

MMRMA also currently self-insures 50% of the first property reinsurance layer, Mr. Waterman confirmed.

Mr. Beeckman noted in the report that the self-funded portions of the MMRMA liability reinsurance program were on an occurrence basis with no aggregate and that MMRMA's policy form is "the broadest available to my knowledge."

"Without detailed loss statistics. . .it is difficult to precisely anticipate the impact of these much greater levels of assumption," the report says.

Questioning MMRMA's long-term prospects, Mr. Beeckman said in an interview that, "It cannot be financially sound. . . .You cannot convince me that you could provide $10 million in occurrence coverage including police and professional liability at a 45% assumption (level) and make money when nobody else has."

Mr. Beeckman added that he thought the MMRMA concept was basically a good one, but that the program would be more fiscally sound if—among other things—liability limits were reduced and coverages were limited.

"I would like to see the program work because we just don't have an alternative here," he said. "I just wish (Mr. Waterman) would tighten it up a little."

Wyatt's Mr. Beres also said he is "concerned about the increase in share the board members have voted to take on within the authority."

"We are sort of reserving much in the way of further comment until we can muster something in the way of further information," said Mr. Beres, who in November recommended the MMRMA program to the city of Owosso.

One of MMRMA's own reinsurers also expressed doubts about the degree of self-funding.

A series of large claims, though unlikely, is still a possibility that should be funded for, and MMRMA is now self-insuring "more limits than they have a reasonable chance of funding" if such large claims develop, according to E. Lee Duncan, vp with Associated/International Insurance Co. in Los Angeles, which reinsures 2% of the top layer of the current MMRMA program.

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While member retentions and the top reinsurance layer are attractively funded for the exposure, the first three reinsurance layers are relatively thinly funded, Mr. Duncan said.

Although MMRMA might consider self-assuming 20% to 25% of each reinsurance layer, he added, "anything more than that to me is high stakes and taking a lot of risk."

The first reinsurance layer is rated on a swing plan, in which loss contributions held for member retentions can be adjusted depending on the loss experience of the first-layer reinsurers.

Reinsurers in the first layer are entitled to a minimum of 8% of earned loss contributions and a maximum of 22%, depending on their loss experience, Mr. Waterman confirmed.

Member retentions are then funded with a minimum 7.75% of total loss contributions to a maximum of 41.75%, depending on experience of the first-layer reinsurers.

Favorable loss experience thus results in MMRMA retaining a larger share of premiums that would otherwise be ceded to reinsurers.

Reinsurers on the second layer then receive 6.25% of loss contributions, those on the third layer 14% and those on the top layer 8%, Mr. Waterman confirmed.

Mr. Duncan noted state insurance laws generally forbid regulated insurers from writing policies with net retained limits of more than 10% of their policyholder surplus. MMRMA, retaining roughly half of the $10 million limit it writes for its members, would thus have to maintain surplus of at least $50 million if it were a regulated insurance company, he said.

Using the same principle, in the fiscal year ending June 30, 1986—when it self-funded about 19.5% of its $10 million limit—MMRMA would have needed $19.5 million in surplus if it were a regulated insurer.

However, the MMRMA's "surplus"—the balance of funds in member contribution accounts after claim payments, reserves, expenses and ceded reinsurance premiums—was $3.8 million as of June 30, 1986, according to financial statements. The balance of MMRMA's reinsurance fund, intended to cover the self-insured portions of the reinsurance layers, was $455,796 as of June 30, 1986, excluding a $600,000 reserve for incurred-but-not-reported losses, according to the financial statement.

Mr. Waterman says that surplus is not a "tangible item" for MMRMA, since members cover any shortfalls in their contribution accounts for losses within their retentions. MMRMA's "surplus" is therefore the ability of members to pay losses, he emphasized.

Maintaining adequate surplus is more important for the self-insured portions of the reinsurance layers, he said, noting that there is no provision for assessing members if the reinsurance fund falls short. If the fund were exhausted, the MMRMA board might either have to raise members' loss contributions or prorate members' claims, he said.

Mr. Waterman added, however, that premiums collected to fund such self-insured losses are far in excess of what MMRMA will actually need.

The fund balance in member contribution accounts was $4.4 million as of Dec. 31, 1986, while the balance in the reinsurance fund was $1.7 million, Mr. Waterman said. The reinsurance fund is expected to total $3.4 million after additions to IBNR reserves at June 30, 1987, he added.

Mr. Waterman also said that MMRMA expects "99%" of its claims to be under $1 million.

MMRMA has been hit with only three claims in excess of member retentions in its history, according to Mr. Waterman. One was the $706,064 wrongful death claim; two other claims ranged between $100,000 and $250,000, he said.

The decision to self-insure was made because of the program's "excellent loss experience" and the increasingly short periods of time over which MMRMA's reinsurance premiums "paid back" the limits in each layer, according to Mr. Waterman.

At the reinsurance rates in effect for fiscal 1986, he said, premiums ceded for the first layer would equal the layer's $450,000 limit within 0.3 years; premiums ceded for the second $500,000 layer would equal that limit in 0.8 years; premiums ceded for the third $4 million layer would equal that limit in 3.5 years; and premium ceded for the fourth $5 million layer would equal that limit in 5.2 years.

Projected payback periods for the 1987 fiscal year are even shorter, he added.

Mr. Waterman noted the rates demanded by MMRMA's commercial reinsurers were excessive given the program's experience.

"I felt strongly, and still do, that we should have received a substantial rate reduction. They said, 'Well, we are willing not to give you a rate increase,' " he explained.

"We thought that the risk involved did not warrant the premium being asked," added Mr. Deadman, an MMRMA director. "The more of the risk we can assume and properly fund, the more we will be independent of the insurance industry."

MMRMA directors also denied agents' accusations that the program was forced to self-insure because it was unable to find adequate commercial reinsurance.

"It wasn't a matter of not being able to get reinsurance. In fact, we have reinsurers that want a little more of the action. But we had layers that were so doggone profitable that we didn't want to give them away," said Ronald Showalter, clerk and treasurer of the city of Garden City and an MMRMA director.

Mr. Waterman added that MMRMA's directors may consider a proposal to eliminate the program's remaining commercial reinsurance at the next renewal and self-fund the entire program with the support of a bond issue.

MMRMA's ability to successfully self-fund portions of the reinsurance program depends, in part, on a reliable estimation of case and IBNR loss reserves.

Reserving practices

For the 1986 fiscal year—when it collected $15.1 million in member loss contributions—MMRMA reported $1.8 million in claims and legal expenses paid net of subrogation receipts and recoveries from the reinsurance and stop-loss programs, according to an unaudited financial statement used by Mr. Beeckman in his report to Washtenaw County and Ann Arbor.

MMRMA also increased loss reserves by $1.7 million, or 11.1% of total earned member contributions of $15.1 million; increased reserves for the stop-loss program by $640,729, or 4.3% of total contributions; increased reserves for legal expenses by $462,719, or 3.1% of total contributions; and paid $570,843 in claims service fees, according to the unaudited statement.

(A 1986 financial statement audited by Arthur Andersen & Co. shows slightly smaller reserve increases: $1.4 million for losses and $447,719 for legal expenses. The audited statement also shows no

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increase in reserves for the stop-loss program.)

Adding up these losses, loss adjustment expenses and reserves and comparing them to total member loss contributions of $15.1 million, Mr. Beeckman estimated MMRMA's loss ratio at 34%.

Mr. Beeckman noted in his report the difficulty of making such calculations, since MMRMA reports its results using generally accepted accounting principles rather than the statutory accounting principles an insurance company would use.

For example, total member contributions of $15.1 million include more than $4.7 million in contributions ceded to the program's reinsurers; an insurance company reporting earned premiums—on which loss ratios are based—would exclude such ceded premiums.

If reinsurance premiums were excluded from MMRMA's total loss contributions, the effect would be to increase the program's loss ratio.

In an interview, however, Mr. Waterman confirmed that a 34% loss ratio is "probably right," adding that MMRMA's own accident year loss ratio calculations for the years 1980 through 1986 showed an overall loss ratio of less than 34%.

Mr. Beeckman, however, says in the report that "it seems very unlikely that the loss and loss expense ratio can legitimately be expected to remain at this percentage. . .A 35% loss ratio on municipal exposures (of all sizes) would contrast sharply to the massive losses experienced by the insurance industry."

The report notes that the industry's loss ratios for general liability business written in Michigan were 74.5% for 1980, 81.9% for 1981, 102.7% for 1982, 82.3% for 1983 and 109.2% for 1984, according to figures compiled by A.M. Best Co. Including underwriting expenses, the industry combined ratios for these years were "far in excess of 100%," the Beeckman report says.

MMRMA reported underwriting, risk management and other expenses of $3.3 million for fiscal 1986, or 21.6% of total member contributions.

Comparing these expenses to total member contributions, Mr. Beeckman calculated the program's expense ratio at 22%, making for a combined ratio of 57.7% after dividends paid to four members totaling 1.7% of loss contributions.

"It would appear that the combined ratio is quite a bit lower than one would expect. If reserves are underrated, it could have an adverse effect upon the future," Mr. Beeckman's report says. "This is especially true if the apparent underreserving were to continue after the major reinsurance assumptions of MMRMA of new losses."

"It doesn't make any sense. He's drawing from the same communities we are," said the MML's Mr. Berrodin, noting that the MML's loss ratio for 1986 was about 50%.

"There is no reason to believe he is being more selective than we are. In fact, it's the reverse," Mr. Berrodin said.

At least one MMRMA member has complained about underreserving for claims.

Clifford Maison, deputy controller for the city of St. Clair Shores, a Detroit suburb, said that inadequate reserves were established for three claims against the city.

A 1985 wrongful death claim against St. Clair Shores that may ultimately be settled for $500,000 or more was reserved at $5,000, Mr. Maison said. The two other claims—which are not as serious and will probably be settled within the city's retention—are reserved at $5,000 and $2,000, he said.

Still other claims against the city

Continued on next page

MMRMA's reinsurance detailed

LIVONIA, Mich.—The Michigan Municipal Risk Management Authority would prefer the details of its reinsurance support were kept confidential.

However, based on interviews with the reinsurers, with Wade Waterman, president of MMRMA's management company, and with other sources, the following details of the liability reinsurance program emerged:

- The first layer—$450,000 excess of $50,000—is reinsured on a "split slip," with some reinsurers covering excess of $50,000 and others excess of $100,000, according to Mr. Waterman. Gaps created by the split slip are self-insured by MMRMA, he said.

First-layer reinsurers include Munich Reinsurance Co., with a 50% share excess of $50,000; Dorinco Reinsurance Co., a Midland, Mich.-based unit of Dow Chemical Co., with 10% excess of $100,000; and the MMRMA itself, which is self-insuring 14.4% excess of $50,000.

- Reinsurers on the second layer of $500,000 excess of $500,000 include Munich Re with 50%; MMRMA, self-insuring 25%; Universal Re-Insurance Co. Ltd., a Bermuda-based rent-a-captive facility, with 15%; and Dorinco, with 10%.
- Reinsurers on the third layer of $4 million excess of $1 million include MMRMA, self-insuring 50%; Universal Re, with 25%; Home Reinsurance Co., with 12.5%; and Aneco Reinsurance Underwriting Ltd. in Bermuda, with 6%.
- Reinsurers on the top layer of $5 million excess of $5 million include MMRMA, self-insuring 50%; Universal Re, with 35%; Home Re, with 10%; and Associated/International Insurance Co.—an affiliate of the MMRMA's broker, Stewart Smith Intermediaries Inc.—with 2%.

Other reinsurers that confirmed that they are on the program but declined to discuss details of their participations are Employers Mutual Casualty Co. of Des Moines, Iowa, through Russell Reinsurance Services of Southfield, Mich.; and Imperial Casualty & Indemnity Co. of Omaha, Neb., through Camelback Reinsurance Underwriters Inc. of Phoenix, Ariz.

Although Bermuda-based Universal Re operates rent-a-captive programs, Mr. Waterman said the reinsurer's participation does not represent further self-funding of the MMRMA's reinsurance program.

All business ceded to Universal Re is retroceded to other Universal Re clients, according to Mr. Waterman, who added that MMRMA does not in turn assume any risks from the other clients.

He added that Cove Marine Insurance Co. Ltd., a Bermuda-based insurer owned by Mr. Waterman and others, is not a retrocessionaire of Universal on this business.

Hal Forkush, president of Atlantic Security Ltd., Universal Re's management company, confirmed that the MMRMA business is ceded to other Universal Re clients.

Mr. Forkush added—and Mr. Waterman confirmed—that if a loss reserve is posted exceeding premium funds available for payments, Cove Marine could be required to post a letter of credit as security. ■

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carry no reserves at all, he added.

Mr. McClorey, a partner with Cummings, McClorey, MMRMA's law firm, said that St. Clair Shores is actually carrying a five-figure reserve for its retention on the death claim.

Mr. McClorey added that the reserve has been at the five-figure level since before last June 30, and that a June 30, 1986, loss run showing the reserve at $5,000 is mistaken.

"Hopefully that's true, and it's taken care of," replied Mr. Maison, adding, though, he had discussed the case with Cummings, McClorey attorneys "four or five times" since June 30 and was never told of the increase in the reserve.

Loss ratio calculations in the Beeckman report did not include the MMRMA's reserves for IBNR losses, and the question of IBNR reserve adequacy is not addressed in his report.

However, MMRMA's competitors also question the program's IBNR reserving practices.

For fiscal 1986, MMRMA increased its IBNR reserves for losses within members' retentions by $594,727 or 3.9% of total member contributions.

Incurred-but-not-reported reserve increases amounted to 3.0% of member contributions in 1985, and to 1.6% of member contributions in 1984 and 1983, according to MMRMA's audited financial statements.

As of last June 30, MMRMA's total IBNR reserves amounted to $850,830, or 3.3% of the $26.1 million in total member contributions collected since 1981, according to the financial statements.

(These percentages again are based on total member loss contributions. If ceded reinsurance premiums were deducted from the total, the IBNR reserve increases would represent a larger percentage of the net member loss contributions.)

"You couldn't get (IBNR) reserves on a shoe store that would be 4%, much less a volatile book of business like municipalities," said Michael Ormstead of Burnham & Flower Group in Kalamazoo, which lost roughly half of its township accounts to the Michigan Township Participating Plan, an MMRMA sister program. Burnham & Flower is now marketing the MML program.

The MML program set aside IBNR reserves of $1.2 million—or 25%—of its member contributions of $4.9 million in 1985, according to the pool's financial statement. For 1986, MML again set aside about 25% of total member contributions for IBNR claims, Mr. Berodin said.

Since MMRMA started self-insuring portions of its reinsurance program in fiscal 1986, the program's audited financial statement has shown a $600,000 IBNR reserve for self-funded reinsurance claims as of last June 30.

This IBNR reserve amounted to more than half of the $1.1 million paid into the reinsurance fund for fiscal 1986, according to MMRMA's financial statement.

Mr. Waterman said that MMRMA's favorable loss experience is the result of several factors, including members' use of incident reporting procedures that alert MMRMA to potential claims; inspections and risk management training that are superior to those provided by commercial insurers; a willingness to fight nuisance claims; and recently enacted tort reforms in Michigan that limit municipal exposures.

Tort reforms signed into law in July 1986 included a provision making officers, employees and volunteers of governmental agencies immune from liability for their official acts, except where gross negligence can be shown.

The Michigan tort reform law also included a provision modifying joint and several liability so that the portion of a judgment a defendant municipality must pay is limited to its percentage of fault (*BI*, Aug. 18, 1986).

In addition, he said, MMRMA did not follow commercial insurers into the price wars that started in the early 1980s and produced the disastrous industry loss ratios against which MMRMA's are now being compared.

MMRMA set its prices in 1979 and has only increased them since that time, Mr. Waterman said, noting that the prices seem low now only because of the enormous increases being demanded by commercial insurers.

MMRMA's experience so far also indicates that IBNR reserve calculations need not necessarily assume extremely long-tail losses, he added.

"What we have found in government risks is that there is no tail, (or) very little tail," he said. "Four years will tell us most of what's out there. Our figures show that IBNR quits after four years."

Mr. Waterman conceded, however, that "it's possible that something could happen. I might not know for 15 years."

While maintaining that MMRMA's reserve levels are adequate, Mr. Waterman also noted that the adequacy of reserves is less crucial for losses within members' retentions, since members must fund any shortfall themselves.

"Whether we reserve it or not, they are still responsible," he pointed out.

The situation is different for the self-funded portions of the reinsurance program—where members cannot be assessed for any shortfall in the fund balance—and that is the reason for the higher level of IBNR reserving, Mr. Waterman added.

"We are operating more like a reinsurance company there," he said.

Continued on next page

Michigan Municipal Risk Management Authority
Statements of revenues, expenses and changes in fund balances
for the years ended June 30, 1986 and 1985

	General fund	Reinsurance fund	Stop-loss fund	Total all funds 1986	Total all funds 1985
Earned loss contributions	$15,057,974	$203,933	—	$15,261,907	$3,936,694
Risk management, underwriting and other expenses:					
Risk management, underwriting, accounting and legal fees	$3,142,229	—	—	$3,142,229	$930,769
Board meeting and other expenses net	114,470	—	—	114,470	69,616
Total risk management, underwriting and other expenses	$3,256,699	—	—	$3,256,699	$1,000,385
Net contributions available for claims and related expenses	$11,801,275	$203,933	—	$12,005,208	$2,936,309
Claims and related expenses:					
Reported claims-					
Claims and legal expenses paid, net of subrogation receipts and portion covered by reinsurance	$1,810,176	$114,248	$540,985	$2,465,409	$602,448
Increase in reserves for losses	1,388,902	—	—	1,388,902	333,804
Increase in reserves for legal expenses	447,719	—	—	447,719	142,443
Increase in reserves for incurred-but-not-reported losses	594,727	600,000	—	1,194,727	120,000
Reinsurance charges	4,562,309	—	—	4,562,309	1,295,388
Claims service fees	570,843	—	—	570,843	148,442
Total claims and related expenses	$9,374,676	$714,248	$540,985	$10,629,909	$2,642,525
Excess (deficiency) of revenues over expenses	$2,426,599	($510,315)	($540,985)	$1,375,299	$293,784
Other income:					
Interest income	$853,384	$53,865	$57,865	$965,114	$369,314
Other	48,812	—	—	48,812	—
Total other income	$902,196	$53,865	$57,865	$1,013,926	$369,314
Excess (deficiency) of revenues over expenses before transfers	$3,328,795	($456,450)	($483,120)	$2,389,225	$663,098
Transfers in (out):					
Reinsurance contributions	(912,246)	912,246	—	—	—
Stop-loss contributions	(928,911)	—	928,911	—	—
Excess of revenues over expenses after transfers	$1,487,638	$455,796	$445,791	$2,389,225	$663,098
Fund balances, beginning of year	1,902,051	—	—	1,902,051	1,238,953
Dividends	(253,560)	—	—	(253,560)	—
Fund balances, end of year	$3,136,129	$455,796	$445,791	$4,037,716	$1,902,051

Source: MMRMA

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Reinsurance restrictions

Another concern raised in Mr. Beeckman's report involves the breadth of coverage actually provided by the MMRMA's commercial reinsurers.

In his report, Mr. Beeckman said that he was never shown copies of reinsurance cover notes or other evidence that reinsurance was in place as described by MMRMA representatives.

At a Sept. 2, 1986, meeting at Mr. Waterman's office, Mr. Beeckman and Ron Milligan, risk manager for Washtenaw County, were shown copies of expired reinsurance treaties originally negotiated for the program, according to the report. Mr. Beeckman had expected to be shown current treaties or cover notes, but was told that Mr. Waterman had inadvertently taken these on a business trip to Ohio.

Mr. Milligan confirmed the report's account of the meeting.

In a follow-up phone call, Mr. Waterman said that he could not provide information on the current reinsurance program without authorization from the MMRMA board, and that the board was not convinced that it was in MMRMA's best interests to provide the information, the report says.

In an interview, Mr. Waterman said that further details of the reinsurance program were not given to Mr. Beeckman because the MMRMA board had ordered him not to give any information to consultants. He also said that the "expired" treaties are continuous until canceled and are still in force.

Finally, Mr. Beeckman was given a typewritten list of the reinsurers and their percentage participations on plain white paper, but only on condition that he not reveal the information to anyone, including Washtenaw County and Ann Arbor officials, the report says.

Mr. Beeckman also received a copy of an Oct. 2, 1986, letter to Mr. Waterman from Leonard T. Corsentino, senior vp with Stewart Smith in New York.

The letter stated in part, "This is to confirm that we have placed on a reinsurance basis all of the business ceded by the captioned authority in respect to the period commencing July 1, 1986. The certificate issued by the captioned authority is $10 million."

From another source, which he would not disclose, Mr. Beeckman also received a copy of a 1985 Stewart Smith cover note for the third casualty reinsurance layer that contained a clause "excluding public officials liability and all E&O."

Mr. Beeckman wrote to Mr. Corsentino last October for an explanation of this exclusion.

"The letter provoked an outcry," according to the Beeckman report. MMRMA representatives wanted to know where he had obtained the cover note and threatened to pull their quotes for Washtenaw County and Ann Arbor, the report says.

MMRMA representatives and Mr. Corsentino never confirmed or denied the contents of the cover note, according to the report.

Mr. Waterman said that the quote for Washtenaw County issued in August expired and was not withdrawn.

Several MMRMA directors, contacted by *Business Insurance* last year before the Beeckman report was issued, said they were unaware of any exclusion of E&O coverage from the reinsurance program.

In a recent interview, however, Mr. Waterman acknowledged that one of MMRMA's reinsurers, Home Re, excludes E&O risks. Home Re is the only MMRMA reinsurer to exclude E&O risks, according to Mr. Waterman, who added that the E&O exclusion does not exclude coverage of police professional liability risks.

Mr. Waterman acknowledged that one of MMRMA's reinsurers, Home Re, excludes E&O risks.

Home Re currently has a 12.5% participation on the third casualty reinsurance layer, and a 10% participation on the fourth layer.

Some MMRMA directors now say they are not worried by the exclusion.

"That's only excess of $1 million, so that does not bother me," said Stanley Fayne, an MMRMA director and risk manager for Macomb County.

Still other reinsurance documents, however, show an additional exclusion about which

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update

RIMS PREVIEW
Issue Date: March 23
Ad Closing: March 10

The editors of *Business Insurance* are preparing a pre-conference report on the upcoming RIMS Conference in Las Vegas, Nevada. We'll provide last minute updates on the Conference agenda, exhibits and events, including info on the host city.

business insurance

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MMRMA directors say they are unaware and which Mr. Waterman contends is not in force.

Business Insurance has obtained copies of reinsurance cover notes presented by Stewart Smith during the most recent renewal for all four casualty reinsurance layers.

Each of these cover notes contains a sunset clause "excluding claims reported later than thirty-six months after expiry on occurrence section of account."

Mr. Duncan of Associated/International confirmed that the sunset provision was a part of the fourth-layer conditions he agreed to and that its inclusion played a major role in his decision to participate on the program.

"It was a critical factor for me, I'll tell you that," he said.

Mr. Duncan also said that he believes the sunset provision in the cover notes initially submitted on the first three layers was not removed.

Mr. Waterman and Bernard McClorey denied any conflict of interest, Mr. Waterman noting that Cove Marine was never used as a direct reinsurer on the programs.

"The terms and conditions are basically Munich Re's, the lead reinsurer's," he said.

Business Insurance could not confirm with other reinsurers the inclusion of the sunset clause in other layers.

MMRMA directors—including Mr. Buckless and Mr. Deadman, members of the board's insurance committee, which oversees reinsurance placements—said in recent interviews that they knew nothing about a sunset provision in the program.

Mr. Waterman said that Munich Re had requested a sunset clause at the last renewal and that its inclusion is still a subject of negotiation.

"We will certainly resist it," Mr. Waterman said. "If it means that I lose the Munich over this, I will lose the Munich over this."

Mr. Waterman insisted, however, that no sunset provision has been added to MMRMA's commercial reinsurance coverage.

"I do not have a sunset clause," he said. "I have not agreed to any modification of the treaties."

A sunset clause may have been included i Stewart Smith cover notes because "that's what (the reinsurers) wanted," Mr. Waterman said, explaining that the reinsurers may have signed onto the program hoping to hammer out an agreement on a sunset clause at a later date.

He added, though, that he has never signed or approved any such change in the the liability treaties' terms and that the reinsurers have never sent him any proposed endorsements to the treaties for his signature.

"If they wish to send them to me, we will take it under advisement," Mr. Waterman said.

Mr. Duncan noted that the Stewart Smith cover notes include a provision that wording of coverage conditions is "to be agreed by underwriters."

Conceivably, he said, Munich Re could back off of its demand for the sunset clause, which would mean that Associated/International and other reinsurers above Munich Re would also be without the clause.

He added, however, that MMRMA reinsurance proposal was presented to him with a sunset clause and that "I was led to believe that they had just not agreed to the final wording."

The Stewart Smith cover notes for all four liability reinsurance layers also show several other limitations, including:

- A 48-month commutation clause, which would give reinsurers the option of seeking commutation of MMRMA losses after four years.

The clause is marked, "to be agreed by underwriters" in all four cover notes.

- Coverage of medical malpractice exposures on a claims-made basis with a 12-month discovery period and no retroactive period if previous coverage was on an occurrence basis or if no coverage existed.
- Coverage of water utilities, sewer facilities and swimming pools on a claims-made basis with a 12-month discovery period.
- The exclusion of coverage for prisons, punitive damages and pollution exposures.

Mr. Waterman also denied that the MMRMA treaties include a commutation clause or any provision for claims-made coverage of any risk. He also noted that MMRMA itself excludes coverage of prisons and pollution risks.

Along with the scarcity of information about reinsurance coverage, MMRMA's critics also complain about discrepancies in MMRMA representatives' descriptions of the the program.

"If you listen to six of their representatives explain how the program is run. . .you get six totally different answers," said Mr. Ormstead of Burnham & Flower.

For example, in an Aug. 20, 1986, letter to Mr. Beeckman, Donald P. Althoff, an MMRMA salesman, said that each of the program's members is responsible for any portion of a claim that becomes uncollectible because of the insolvency of an MMRMA reinsurer, "the same as if one of their previous private sector carriers were to become insolvent."

In an interview, however, Mr. Waterman said that such uncollectable losses would not come out of members' pockets but would be paid by MMRMA as a whole out of stop-loss or other internal funds.

Mr. Waterman conceded that there were some discrepancies in Mr. Althoff's description of the program to Mr. Beeckman, adding "those discrepancies are regrettable. I'm sorry they occurred."

MMRMA competitors also complain that the program's representatives issue premium quotations—frequently but not always lower than the competitors'—without carefully underwriting the risk.

MMRMA has quoted on some governmental units without asking for such basic underwriting data as the number of vehicles operated by the entity, according to Corroon & Black's Mr. Larson.

"They have written on price and price alone, because they can beat our price any time they want to," said Mr. Ormstead. "They don't ask about losses and they write anything."

"Wade (Waterman) is taking everybody around," said Mr. Beeckman.

Mr. Waterman denies any lack of selectivity in his underwriting, saying that the MMRMA declines to even issue quotes on about 25% of the risks it reviews because the exposures are too severe.

He added that the MMRMA is able to issue quotes quickly in many cases because the program's underwriters have been building underwriting files on various municipalities over a period of months or years, and already have much of the underwriting data they need. ■

Bermuda underwriter acted as MMRMA retrocessionaire

By DOUGLAS McLEOD

LIVONIA, Mich.—At various times since 1984, Bermuda-based Cove Marine Insurance Co. Ltd. has acted as a retrocessionaire of the Michigan Municipal Risk Management Authority and three of its sister programs.

According to a list of shareholders in Bermuda, Cove's shareholders include:

- Wade Waterman, president of Governmental Risk Managers Inc., the MMRMA's management company, and Joseph Waterman, Wade Waterman's brother.
- David Chamberlain, vp with Governmental Risk Managers.
- Paul Quenneville, a partner with Quenneville & McSweeney P.C. of Southfield, Mich., certified public accountants for the MMRMA.
- Owen J. Cummings, Bernard P. McClorey, Gerald C. Davis and Ronald G. Acho, partners with the Livonia law firm of Cummings, McClorey, Davis & Acho P.C., which provides legal services to the MMRMA.
- W.B. Revenaugh Jr. of Utica, Mich., and Robert E. Barnes of Livonia, individual investors who are not connected with MMRMA, according to Mr. Waterman.

Each of these individuals holds 119 Cove Marine shares, according to the share register. Two other individuals hold three shares apiece: Leonard T. Corsentino, senior vp of Stewart Smith Intermediaries Inc. in New York, MMRMA's reinsurance broker; and Daniel L. McClorey, Bernard McClorey's brother.

Four other Bermuda residents hold one share apiece, according to the register.

At various times since July 1, 1984, Cove Marine has served as a retrocessionaire behind Great Global Assurance Co. of Scottsdale, Ariz., on the MMRMA program, the Michigan Road Commission Risk Management Authority, the Michigan Township Participating Plan and the Michigan Community College Risk Management Authority, according to Mr. Waterman.

Great Global was placed in rehabilitation last year (*BI*, Aug. 18, 1986).

As of July 1, 1984, Great Global reinsured the MMRMA and the road commission program on a portion of each of three layers of a property reinsurance program that provided total limits up to $2 million excess of MMRMA members' retentions, according to reinsurance documents. Great Global also had a piece of a $5 million excess aggregate reinsurance agreement covering property risks.

Starting in April 1985, Great Global also reinsured the first $50,000 per occurrence on the MTPP's liability program, according to Mr. Waterman. Also as of July 1, 1985, Great Global reinsured $40,000 excess of $10,000 per occurrence and $500,000 excess of $30,000 annual aggregate for the community college plan's liability program, he said.

Great Global had initially planned to retain 100% of the risk on these programs, according to Mr. Waterman. However, in July 1985, Great Global was under pressure from state regulators to reduce its net premium-to-surplus ratio, and told the MMRMA that it wanted to cede 50% of the business to reduce its retained writings, Mr. Waterman said.

Great Global later decided that it wanted to cede 100% of the risk, he said.

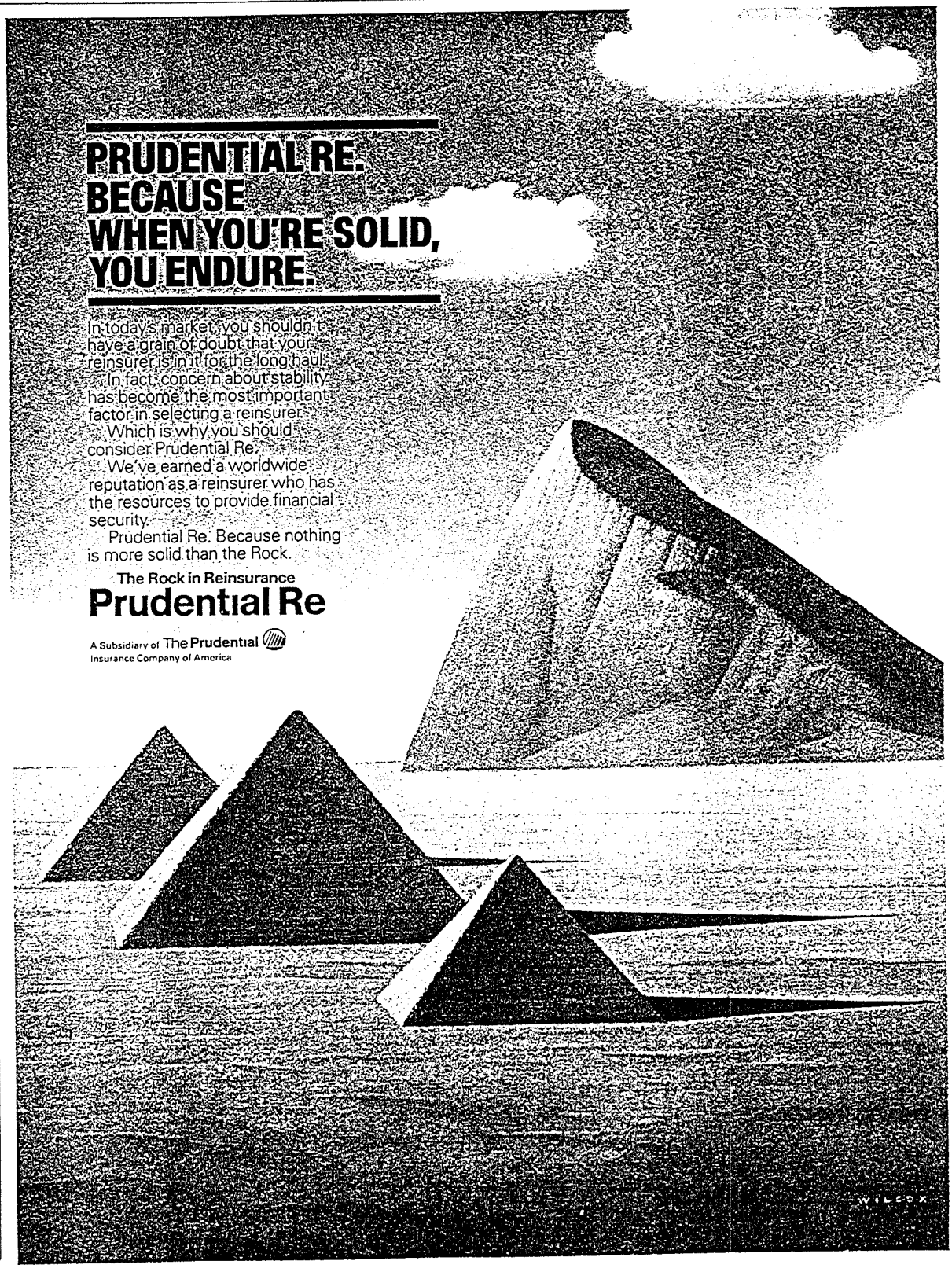
Great Global then ceded the business retroactively to North Star Hospital Mutual Insurance Ltd., a Bermuda-based hospital group captive managed by Polaris International Insurance Managers Ltd., a Great Global affiliate. North Star also did not want to retain the business, so it was ceded again to Cove Marine, Mr. Waterman explained.

The retrocessions to North Star and then to Cove were retroactive to July 1, 1984, on the MMRMA property business, he said.

The retrocessions on MTPP and college plan business were retroactive to July 1, 1985, according to Mr. Waterman, who added that on the MTPP program, a third retrocessionaire, Universal Re-Insurance Co. Ltd., was added retroactively to replace North Star.

"What a tangled web that was,"

Continued on next page



MMRMA retrocessionaire

Continued from previous page

Mr. Waterman observed.

With the July 1985 property reinsurance renewal, the MMRMA self-insured some portions of the risks that had been reinsured by Great Global, and found other reinsurers to assume the rest, he said, adding that Cove Marine ceased functioning as a retrocessionaire.

At the July 1, 1986, renewal, MTPP replaced Great Global —and the retrocessions to North Star, Universal Re and Cove Marine—with Governmental Casualty Insurance Co., an Ohio insurer formed last year by Mr. Waterman and others connected with MMRMA to write municipal liability insurance.

The portions of the community college program originally placed with Great Global were reinsured as of July 1, 1986 by Universal Re, which continues to cede 100% of the college risks it writes to Cove, Mr. Waterman said.

In all, about $1.2 million in premiums were ceded to Cove Marine for MMRMA and the related programs, according to Mr. Waterman, who said Cove collects $1 in premiums for each 70 cents in losses paid and refunds excess profits to the members of the programs.

Excess profits refunds on all the programs have totaled between $400,000 and $500,000, he said.

Mr. Waterman added that Cove Marine was never intended to be used as a reinsurer of MMRMA or its sister programs, but instead was set up to write association insurance programs in other states.

Mr. Waterman and Bernard McClorey denied any conflict of interest, Mr. Waterman noting that Cove Marine was never used as a direct reinsurer on the programs.

Cove was used on the MMRMA programs, he said, only as a retroactive stop-gap measure, and was replaced by other reinsurers or by self-insurance as soon as possible.

"When we got backed into it, which was always after the fact, we took steps to eliminate it, not that I don't think the risk is good," he said.

However, several MMRMA directors contacted by *Business Insurance* said they were unaware of the retrocessions to Cove Marine.

The MMRMA board had reviewed the possible use of Cove to replace Fremont Indemnity Co. on portions of the property insurance program in 1983, but decided against it, according to Gerald Buckless, an MMRMA director and county representative for Livingston County.

"I don't think the board really seriously considered that," ckless said. "Personally, I don't think it would have l d right if we had used (Cove)."

When informed of the retrocessions, however, Mr. Buckless said, "I really don't think that they have probably done anything wrong."

Mr. Waterman also said that he "doubted" that the directors of the MTPP program knew of the retrocessions to Cove Marine, but that the directors of the community college program were informed of the retrocessions.

However, two directors of the community college program said in interviews they weren't familiar with Cove Marine.

"I don't believe they are one of our reinsurers," said Anthony Jarson, vice chancellor for administrative services for Oakland Community College in Bloomfield Hills, adding that he would have no way of knowing if Cove were a retrocessionaire.

The name Cove Marine "does not sound familiar," said Timothy Bennett, dean of business affairs and treasurer for Monroe County Community College in Monroe. "It doesn't ring a bell."

Mr. Waterman and Bernard McClorey denied any conflict of interest, Mr. Waterman noting that the Bermuda company was never used as a direct reinsurer on the programs.

Mr. Corsentino of Stewart Smith also denied any conflict of interest, explaining that he became a Cove shareholder as a favor to the other owners, who for tax reasons wanted to limit their individual shareholdings to less than 10% of the reinsurer's outstanding stock. ■

Panel tackles task of PPO credentialing

A new credentialing process for preferred provider organizations could alleviate employers' confusion in selecting a PPO.

"There's a sense among the purchasing community of what an HMO is, but there's a lot of confusion over what a PPO is," said Peter Boland, president of Berkeley, Calif.-based Boland Healthcare Consultants.

Mr. Boland also is the chairman of a new committee of the American Assn. of Preferred Provider Organizations in Alexandria, Va. The committee's task is to develop a voluntary credentialing function for PPOs.

"Realizing there are many variations of PPOs, the charge of the AAPPO is to give the purchaser a better frame of reference as to what you're really getting when you select a PPO," he said. "And, this set of standards will set goals for providers and sponsors of PPO programs."

The task force will develop eligibility criteria for PPO credentialing in categories such as:

- Provider selection.
- Reimbursement systems.
- Benefit design.
- Range and access to preferred providers and services.
- Utilization review protocols.
- Quality assurance guidelines.
- Case management and discharge planning.
- Reporting systems for purchasers, or employers.
- Provider reporting systems.
- Management.
- Financial solvency.
- Employee/patient education systems.

"While a line can be drawn to the early HMOs and the federal HMO law and federal qualification of HMOs, the credentialing is an AAPPO stamp of approval. This is not regulatory," Mr. Boland said.

The task force includes representatives from PPOs, hospitals, insurers, employers and management consultants, Mr. Boland said.

The AAPPO plans to have the credentialing function available to its member PPOs by late spring, he said.

The credentialing function "at least provides uniformity of the definition of PPOs," said Laird Miller, chief executive officer of Minneapolis-based health care consultant Health Systems Management Inc., and a member of the AAPPO committee.

"There are very few employers or purchasers that will be able to evaluate a PPO on their own, so there is a need for standards that we can rely on," Mr. Miller said. ■

GENERAL LIABILITY INSURANCE
MUNICIPAL CLASSES
MONOLINE AND PACKAGE BUSINESS

POLICY YEAR ENDING	TOTAL LIMITS EARNED PREMIUMS	DEVELOPED BASIC LIMITS INC. LOSSES	DEVELOPED EXCESS LIMITS INC. LOSSES	NUMBER OF CLAIMS	T/L LOSS RATIO
KANSAS					
31-Dec-80	242,670	310,459	36,912	42	1.431
31-Dec-81	678,334	350,281	1,224	41	0.518
31-Dec-82	1,076,702	552,127	20,671	77	0.532
31-Dec-83	1,154,845	946,811	1,322,932	115	1.965
31-Dec-84	907,077	639,396	1,294,812	73	2.132
TOTAL	4,059,628	2,799,074	2,676,551	348	1.349
COUNTRYWIDE					
31-Dec-80	35,296,627	31,251,906	15,719,085	4,390	1.331
31-Dec-81	57,007,556	48,984,959	30,810,927	6,460	1.400
31-Dec-82	66,407,102	67,818,339	39,395,319	8,527	1.614
31-Dec-83	78,059,122	96,319,947	69,406,579	11,630	2.123
31-Dec-84	67,692,458	100,679,876	73,688,299	12,125	2.576
TOTAL	304,462,865	345,055,027	229,020,209	43,132	1.886

GENERAL LIABILITY INSURANCE
PUBLIC SCHOOLS (CLASSES 82113, 82116 AND 93221)
MONOLINE AND PACKAGE BUSINESS

KANSAS					
31-Dec-80	89,928	235,543	36,912	27	3.030
31-Dec-81	115,265	189,868	1,224	21	1.658
31-Dec-82	118,821	254,563	20,671	32	2.316
31-Dec-83	183,754	306,992	874,724	41	6.431
31-Dec-84	219,638	103,882	0	36	0.473
TOTAL	727,406	1,090,848	933,531	157	2.783
COUNTRYWIDE					
31-Dec-80	12,336,307	10,440,549	3,600,852	1,807	1.138
31-Dec-81	17,130,091	15,196,239	7,081,218	2,595	1.300
31-Dec-82	19,234,384	19,856,327	7,124,042	3,106	1.403
31-Dec-83	26,392,414	36,820,657	22,929,399	4,844	2.264
31-Dec-84	24,262,371	39,878,934	23,557,466	5,100	2.615
TOTAL	99,355,567	122,192,706	64,292,977	17,452	1.877

GENERAL LIABILITY INSURANCE
STREETS AND ROADS
MONOLINE AND PACKAGE BUSINESS

KANSAS					
31-Dec-80	128,060	74,530	0	10	0.582
31-Dec-81	164,875	83,292	0	6	0.505
31-Dec-82	157,905	101,937	0	12	0.646
31-Dec-83	138,895	263,937	311,351	20	4.142
31-Dec-84	94,268	289,947	1,294,812	9	16.811
TOTAL	684,003	813,643	1,606,163	57	3.538
COUNTRYWIDE					
31-Dec-80	6,874,941	10,080,648	5,124,326	1,307	2.212
31-Dec-81	7,538,187	14,461,824	8,575,478	1,654	3.056
31-Dec-82	7,328,564	17,623,471	13,505,009	1,818	4.248
31-Dec-83	6,660,170	17,677,843	16,507,406	1,921	5.133
31-Dec-84	5,652,493	17,050,818	13,603,390	1,868	5.423
TOTAL	34,054,355	76,894,604	57,315,609	8,568	3.941

KANSAS ASSOCIATION OF SCHOOL BOARDS

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

TESTIMONY ON SUBSTITUTE FOR H.B. 2109

before the

Senate Local Government Committee

by

Bill Curtis, Assistant Executive Director
Kansas Association of School Boards

April 1, 1987

Mr. Chairman and members of the Committee, the Kansas Association of School Boards appreciates the opportunity to testify today on Sub. for H.B. 2109. That bill, in its original form, was introduced by the House Education Committee at the request of KASB. It was doubly referred and then later withdrawn from the House Education Committee. The House Insurance Committee authored the bill which is the subject of this hearing.

Even though we appear as a proponent of the bill, there are several amendments which are necessary. Most of those changes involve the authority of the Commissioner of Insurance. The most important change is on page 8, lines 270 thru 272. If the pool must abide by the requirements imposed by the excess insurance carrier, then many pools would be out of business.

There have been several proposals submitted this legislative session dealing with group funded pools. The League of Municipalities has a proposal which passed this committee and the Senate. That bill in the House Insurance

Committee was amended to include the language of Sub. for H.B. 2109. The approach that was taken by the League, amending the interlocal statutes, is not acceptable to KASB.

The key arguments advanced by opponents of such legislation concern the question of oversite and regulation by the Insurance Commissioner and Department. While KASB is willing to consider some oversite to protect the fiscal integrity of such pools, we do not believe it is necessary to make self-funding arrangements subject to the same rules as insurance companies. School districts currently have the ability to self-insure. A pool simply raises the chances for self-insurance to be successful by using the basic principle of insurance, to share the risk.

Thank you for your time and attention. We would urge the committee to consider the proposed changes and pass Sub. for H.B. 2109.

KLPG
Kansas Legislative Policy Group
301 Capitol Tower, 400 West Eighth, Topeka, Kansas 66603, 913-233-2227
TIMOTHY N. HAGEMANN, Executive Director

April 1, 1987
TESTIMONY
to
SENATE LOCAL GOVERNMENT COMMITTEE
Sub. HB 2109

Mr. Chairman and committee members, I am Chip Wheelen of Pete McGill and Associates. We represent the Kansas Legislative Policy Group which is an organization of rural county commissioners. We are generally opposed to the provisions of Substitute for House Bill 2109.

While it may be desireable for legislative purposes to require some information reporting by local risk management cooperatives, Sub. HB 2109 would impose far more than reporting requirements. If enacted, this bill would generally treat local governments as if they were regulated insurance companies.

We reiterate our testimony in support of Senate Bill 250. Because of the inherent differences between municipalities and private sector organizations, we believe that regulation of local government risk pooling arrangements is unnecessary.

We respectfully suggest that if this Committee decides to report Sub. HB 2109 to the Senate, that you amend it to replicate SB 250. Thank you again for your consideration and assistance in resolving this question.

(ATTACHMENT III) LOCAL GO 4/1/87

(A III)

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1987

HOUSE BILL No. 2394

By Committee on Local Government

2-13

AN ACT concerning county extension programs; relating to election of members of councils; budget filing; programs and personnel funded by two or more counties; authorizing formation of extension districts; amending K.S.A. 2-615 and 2-616 and K.S.A. 1986 Supp. 2-610 and 2-611 and repealing the existing sections.

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

Section 1. K.S.A. 1986 Supp. 2-610 is hereby amended to read as follows: 2-610. *(a)* On or before ~~June 30~~ *August 1* each year, the executive board of the county extension council shall file with the county commissioners in the office of the county clerk:

~~(a)~~ *(1)* A list of current members of the county extension council and its executive board;

~~(b)~~ *(2)* a certification of election of officers as provided in subsection (c) of K.S.A. 2-611, and amendments thereto;

~~(c)~~ *(3)* a certificate by the director of extension of Kansas state university of agriculture and applied science that the county extension council is properly functioning and entitled to receive the appropriations provided by law; and

~~(d)~~ *(4)* a budget prepared in cooperation with the ~~board of county commissioners and the~~ director of extension of Kansas state university of agriculture and applied science for the ensuing calendar year.

(b) ~~The budget shall clearly show all receipts from all sources. After the approval of such budget by (1) members of the board of county commissioners, (2) the director of extension of Kansas state university of agriculture and applied science or the~~

proposed

If the commission does not approve the proposed budget within 10 days after receipt thereof, it shall return the budget to the board. Upon receipt of the returned budget, the board shall consider amendments or modifications and may consult with the commission concerning the budget. Within 10 days after receipt of the returned budget, the board shall resubmit its proposed budget, with or without amendment or modification, to the commission. Within 10 days after resubmission of the proposed budget, the commission shall approve, or amend or modify and approve as amended or modified, such proposed budget. The commission shall adopt the proposed budget as approved and shall make the same a part of the regular county budget.

ATTACHMENT IV) LOCAL GO 4/1/87

~~director's duly authorized representative, and (3) the chairperson of the executive board of the county extension council, acting as a body,~~ The board of county commissioners shall ~~then~~ make an appropriation and certify to the county clerk the amount of tax necessary to be levied on all tangible taxable property of the county sufficient to provide a program of county extension work and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, which levy shall not exceed the limitation prescribed by K.S.A. 79-1947, and amendments thereto.

Sec. 2. K.S.A. 1986 Supp. 2-611 is hereby amended to read as follows: 2-611. (a) Except as otherwise provided in this section, the citizens of voting age residing in each of the county commissioner districts in each county in this state are qualified to participate in the meeting which shall be held in each such district in each year not earlier than September 1, and at least 10 days before the annual meeting of the county extension council upon a date and at a time and place determined and fixed by the executive board of the county extension council and shall elect annually from among their number ~~three~~ *four* members of the county extension council. In Leavenworth county, such election shall be held at the time of the annual Leavenworth county fair. Of the ~~three~~ *four* members, one shall be elected to represent agriculture and shall be actively engaged in agricultural pursuits, one shall be elected to represent home economics work ~~and~~, one shall be elected to represent 4-H club and youth work, *and one shall be elected to represent* **[educational programs in]** *economic development* **initiatives**. The county extension council executive board members of each county may choose to hold a countywide election meeting in lieu of holding a meeting in each district. Prior to adjournment of the countywide meeting the citizens of each county commissioner district shall separate into groups for the purpose of electing the county extension council members who shall represent the district on the county extension council. The countywide meeting shall be subject to the same conditions hereinabove provided for county commissioner district election

Johnson County
Kansas

SENATE LOCAL GOVERNMENT COMMITTEE
HEARING ON HB 2152
WEDNESDAY, APRIL 1, 1987
TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR
JOHNSON COUNTY BOARD OF COMMISSIONERS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS GERRY RAY AND I REPRESENT THE JOHNSON COUNTY BOARD OF COMMISSIONERS. THANK YOU FOR THE OPPORTUNITY TO PRESENT TESTIMONY IN SUPPORT OF HOUSE BILL 2152.

THE BILL AMENDS THREE STATUTES PERTAINING TO COUNTY BIDDING PROCEDURES FOR ROAD PROJECTS. JOHNSON COUNTY REQUESTED THE BILL BECAUSE THE REQUIREMENTS CONTAINED IN THE EXISTING STATUTES ARE RESTRICTIVE AND RATHER OUT OF DATE WITH RESPECT TO CURRENTLY ACCEPTED BIDDING PROCEDURES AND THE COST OF ROAD IMPROVEMENTS IN 1987.

HB 2152 AMENDS THE FOLLOWING THREE AREAS OF THE STATUTES:

1. THE AMOUNT THAT CAN BE EXPENDED ON A ROAD PROJECT BEFORE COMPETITIVE BIDDING IS REQUIRED IS INCREASED FROM $500 TO $5,000. IT IS NOT NECESSARY TO BE A COUNTY ENGINEER OR A PURCHASING AGENT TO RECOGNIZE THAT TODAY EVEN THE MOST MINIMAL ROAD REPAIRS CANNOT BE DONE FOR $500.

2. THE COUNTY COMMISSIONERS ARE GRANTED THE AUTHORITY TO DESIGNATE THE COUNTY OFFICER RESPONSIBLE FOR CERTAIN ADMINISTRATIVE FUNCTIONS IN THE BIDDING PROCESS. THIS ALLOWS EACH COUNTY TO STRUCTURE THE BIDDING PROCEDURES IN A MANNER THAT BEST SUITS THEIR NEEDS.

(ATTACHMENT V) LOCAL GO 4/1/87

AV

3. THE STIPULATION THAT BIDDERS MUST SUBMIT A CERTIFIED CHECK AS A BID SURETY IS REPLACED BY ALLOWING THE BOARD OF COMMISSIONERS TO PRESCRIBE THE FORM IN WHICH BID SURETIES ARE TO BE SUBMITTED.

IN DRAFTING THE BILL WE ATTEMPTED TO RETAIN THE EXISTING STATUTORY LANGUAGE WHEN POSSIBLE. THE MAJORITY OF THE AMENDMENTS ARE MERELY OPTIONS THAT OFFER THE COUNTY COMMISSIONERS FLEXIBILITY TO DETERMINE PROCEDURES THAT ARE MOST APPROPRIATE IN THEIR INDIVIDUAL COUNTY, WHILE MAINTAINING NECESSARY STATUTORY GUIDELINES.

THE ORIGINAL BILL JOHNSON COUNTY HAD PROPOSED, HAD TWO LEVELS OF REQUIREMENTS. AMOUNTS FROM $2,000 TO $10,000 DID NOT REQUIRE FULL COMPETITIVE BIDDING PROCEDURES BUT DID REQUIRE A DOCUMENTATION OF COMPETITION. THIS MEANS QUOTATIONS COULD BE SOLICITED FROM SEVERAL VENDORS WITHOUT THE EXPENSE OF PUBLISHING NOTICE AND ACCEPTING SEALED BIDS. AT THE $10,000 AMOUNT THE FULL COMPETITIVE BIDDING PROCESS WAS REQUIRED. THE HOUSE COMMITTEE AMENDED IT TO $5,000 BEFORE ANY COMPETITIVE PROCESS IS NEEDED. WE WOULD ASK THIS COMMITTEE TO CONSIDER AMENDING THE BILL TO RETURN THE $10,000 REQUIREMENT FOR FULL COMPETITIVE BIDDING PROCEDURES. WE FEEL THIS IS A LOGICAL APPROACH, WHEN THE CURRENT COST OF ROAD PROJECTS IS CONSIDERED.

THE JOHNSON COUNTY COMMISSIONERS BELIEVES THAT OUR PROPOSAL OFFERS A BROADER SCOPE OF ALTERNATIVES THAT WILL ADDRESS THE NEEDS OF ALL COUNTIES AND REQUEST THAT HOUSE BILL 2152 BE RECOMMENDED FOR PASSAGE.

Kansas Legislative Policy Group
301 Capitol Tower, 400 West Eighth, Topeka, Kansas 66603, 913-233-2227
TIMOTHY N. HAGEMANN, Executive Director

April 1, 1987

TESTIMONY
to
SENATE LOCAL GOVERNMENT COMMITTEE
House Bill 2152

Mr. Chairman and committee members, I am Chip Wheelen of Pete McGill and Associates. We represent the Kansas Legislative Policy Group which is an organization of rural county commissioners. We support the provisions of HB 2152, as amended by the House.

We believe the $5,000 benchmark selected by the House Committee is a reasonable level at which counties should be required to administer a formal process of developing detailed specifications, soliciting bids, and awarding contracts. By contrast, informal awarding of maintenance contracts avoids costly administration and expedites repair of the local infrastructure.

We believe that HB 2152 simply delegates a little more authority to officials who are elected to conduct the county's affairs in a responsible manner. We respectfully request that you recommend HB 2152 for passage.

(ATTACHMENT VI) LOCAL GO 4/1/87

Kansas Association of Counties

Serving Kansas Counties

212 S.W. Seventh Street, Topeka, Kansas 66603 Phone (913) 233-2271

April 1, 1987

To: Senator Don Montgomery, Chairman
Members of the Senate Local Government Committee

From: Bev Bradley, Legislative Coordinator
Kansas Association of Counties

Re: HB-2152

Good morning ladies and gentlemen.

I am Bev Bradley, representing the Kansas Association of Counties.

The Kansas Association of Counties is in support of HB-2152. In 1987 the large counties in Kansas are becoming very modern in their county courthouses. Several of them have purchasing officers and these people are in charge of the displaying bids instead of the County Clerk. We also believe a bid surety in the amount of 5% is an appropriate document instead of a certified check.

We support HB-2152.

(ATTACHMENT VII) LOCAL GO 4/1/87

A VII

from Scott Beeler

7 RS 1402

SENATE Substitute for HOUSE BILL NO. 2480

By Committee on Local Government

AN ACT concerning water districts; relating to lands annexed by cities; amending K.S.A. 1986 Supp. 12-527 and repealing the existing section.

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

Section 1. K.S.A. 1986 Supp. 12-527 is hereby amended to read as follows: 12-527. (a) Whenever a city annexes land located within a rural water district organized pursuant to the provisions of K.S.A. 82a-612 et seq., and amendments thereto, the city shall negotiate with the district to acquire title to all facilities used for the transportation or utilization of water belonging to the water district. ~~If the district agrees to divest itself of title to such facilities,~~ title shall vest in or become the property of the city upon payment by the city to the water district of the reasonable value of such property, as agreed upon by the governing body of the city and the board of directors of the district~~,--or--if--such--agreement--is--not--made,--then--as determined-by-the-city.--The--board--of--directors--of--any--such district~~. If the district desires to divest itself of title to such facilities but~~ is unable to reach agreement with the city on the reasonable value for such facilities, then the reasonable value shall be determined by the district. The city may bring an action in the district court to determine the reasonableness of the value fixed and determined by any such ~~city~~ district.

~~(b)--Such--compensation-shall-include-an-amount-to-reimburse the-district-for-any-bonded-indebtedness-of-the-district-existing at-the-time-the-annexation-ordinance-took-effect-and-attributable to-the-annexed-area,-based-on-the-following-factors:~~

~~(1)--The-cost-of-the-construction-of-the--facilities--within the--annexed-area-in-proportion-to-the-construction-costs-for-the~~

(ATTACHMENT VIII)LOCAL GO 4/1/87

VIII

~~entire-district-at-the-time-of-annexation;~~

~~(2)--the-number-of-benefit-units--connected--to--and--served within--the--annexed--area-in-proportion-to-the-number-of-benefit units-connected-to-and-served-by-the-entire-district-at-the--time of-annexation;-and~~

~~(3)--the--current-revenue-received-from-benefit-units-within the-annexed-area-in-proportion-to-the--current--revenue--received from--all--benefit--units--of--the-entire-district-at-the-time-of annexation.~~

(b) The "reasonable value" of the property shall include, but not be limited to, the following factors:

(1) An amount to reimburse the district for any bonded indebtedness of the district existing at the time of payment by the city and attributable to the annexed area based upon the ratio of the benefit units in the annexed area compared with the total benefit units served by the district; and

(2) an amount to reimburse the district for all the facilities to be transferred to the city based upon the ratio of the benefit units in the annexed area compared with the total benefit units served by the district, applied to the original construction cost adjusted to the current construction value and depreciated at a straight line rate over a forty-year period. The depreciated reduction of value shall be applied for the actual number of years the system has been in service or 30 years whichever is the lessor of time expended; and

(3) an amount equal to the gross revenue loss for the immediate past (three) business years from those benefit units in the annexed area or the actual current benefit unit costs for those benefit units in the annexed area whichever is the greater.

(c) The compensation required by this section shall be paid to the district whether or not the city actually utilizes the facilities of the district for the delivery of water to property within the city and shall be paid at a time not later than 60 days following the date ~~the-city-provides-water-to--one--or--more benefit-units-who-were-supplied-water-by-the-district-at-the-time~~

~~of--annexation or~~ of the annexation ordinance, or at such later date as may be mutually agreed upon by the city or the district court or as may be determined by the district court. ~~Payment of any such compensation shall be made on a basis which is in proportion to the number of benefit units within the annexed area which are connected to and served by the city and the total number of benefit units within the annexed area.~~ In no case shall the city provide water to benefit units outside the city. The city, as part of its service extension plan required under the provisions of K.S.A. 12-520b and 12-521c, and amendments thereto, shall notify each affected rural water district of its future plans for the delivery of water in areas proposed for annexation currently being served by the district.

(d) The governing body of the city and board of directors of the district may provide, on such terms as may be agreed upon, that water transmission facilities owned by the district and located within the city may be retained by the district for the purpose of transporting water to benefit units outside the city.

Sec. 2. K.S.A. 1986 Supp. 12-527 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the ~~statute~~ Register book.

MEMORANDUM

TO: Senate Local Government Committee
Don Montgomery, Chairman
Audrey Langworthy, ViceChairman
Jim Allen
Gus Bogina
Norma Daniels
Roy Ehrlich
Frank Gaines
Bill Mulich
Alicia Salisbury
Jack Steineger
Wint Winter, Jr.

Mr. Chairman and members of the Senate Local Government Committee:

My name is R. Scott Beeler and I am an attorney practicing law with the Gage & Tucker law firm in Overland Park, Kansas. This morning I come before your committee as general counsel for one of the Johnson Rural Water Districts but also out of my concern for the status of all other Kansas Rural Water Districts which are subjected to the application of K.S.A. 12-527.

At the present time, Rural Water Districts organized under K.S.A. 82a-612, et seq., (which I believe includes all but one rural water district in the State of Kansas), are unilaterally subjected to condemnation of their district lines and facilities at the moment of annexation by a city. The current statute provides that title to the facilities "shall vest" in the city upon payment of reasonable value to

the district. The statute does not give viable water districts any decision making ability in their business future.

Please allow me to state that the rural water districts were extremely grateful for the legislative changes made last year to help establish formulas for determining "reasonable value" on water district facilities whenever a city desires to take those facilities over after annexation. Our original purpose in supporting House Bill 2480 was not to take away the "reasonable value" formulas and principles, but rather, to take away the "condemnation powers" of the city in unilaterally taking the property or rural water districts. Unfortunately, the current statute does not provide any protection for a viable rural water district which does not want to be forced out of business by a sale of its facilities upon annexation by a city. In addition, after contemplating the effects of the legislative changes made last year, we are respectfully proposing some additional modifications to the "reasonable value" provisions of the statute.

Originally, it was our thought that a modification of K.S.A. 12-527 which re-emphasized the constitutional right of a viable business entity to determine whether it would sell its facilities, would allow the House and Senate to simplify or even delete many of the formulas and principles now listed

in the statute for determining reasonable value. In short, if the district had the right to decide whether it would sell, it seemed to make sense that it would make that decision based upon the offer being made by the city. It is for those reasons that you see the simplified statute modification which comprises House Bill 2480.

After passage by the House, there have been numerous discussions among various representatives and senators about this bill. Some very well informed senators and representatives pointed out examples where some of the smaller rural water districts might be detrimentally affected by a change which did not require the city to negotiate for the purchase of the lines as the statute presently reads. There was also considerable discussion and contemplation over the necessity for including reasoned formulas for determining "reasonable value" in the negotiation of any sale. These discussion have resulted in the respectful submission of substitute language in the bill. Let me state that we are grateful for the concerns of these representatives and senators and we wholly support the substitute bill now before you. The substitute bill will provide substantial protection to rural water districts by allowing them to determine their business future and also by maintaining the requirement of the city to negotiate the sale and the reasonable value

formulas should the district reach a decision to divest itself of title.

In conclusion:

1. The substitute bill will have no negative affect upon the ability of a city to annex land served by rural water districts. The bill simply protects the right of the water district to do business within its defined service area.

2. The bill does not prevent a city from competing with the water district, if it should so desire, in the event the district chooses not to divest itself of title to its lines.

3. The bill does provide protection for the large rural districts which are viable business entities and for the smaller less viable district which may welcome the intervention of the city.

4. The bill does protect viable rural districts by allowing them to determine their own business future without fear of unilateral condemnation.

5. The bill does protect smaller less viable districts by requiring cities to offer to purchase district facilities upon annexation and based upon certain minimum standards and formulas.

It is my understanding and belief that the House and Senate sought to enact legislation last year which would

protect rural water districts and their business operations. I would respectfully suggest that the substitute bill now before you clarifies certain of last year's legislation and even goes a bit further to truly protect the business rights of the rural water entities. Thank you for your consideration and concern in this matter.

Respectfully submitted,

R. Scott Beeler

KRWA

April 1, 1987

TO: Senate Local Government Committee

RE: Statement of support for House Bill 2480

On behalf of the membership of the Kansas Rural Water Association, I wish to express to you our support of House Bill 2480.

Rural Water Districts, particularly those located in developing areas, have evolved into significant water supply and service organizations. In fact, in many cases, rural water districts will have more substantial facilities in some of their areas that an annexing city might have in its own adjacent areas. There is simply no logical rationale for Kansas statutes to dictate that the annexing city shall take over the service area of a rural water district.

Currently, K.S.A. 12-527 leaves no options to a rural water district having part of its service area annexed by a city. House Bill 2480 would at least allow the water district some say as to its destiny.

Your favorable action on this bill will be appreciated by all Rural Water Districts in Kansas.

Dennis F. Schwartz
KRWA Vice-President

(ATTACHMENT X)

) LOCAL GO 4/1/87

KANSAS RURAL WATER ASSOCIATION
P.O. Box 226
Seneca, Kansas 66538
(913) 336-3760

(4 X)

TO: Senate Local Government Committee

FR: Marylin Swartley, Mayor

RE: HB 2480 - Rural Water Districts; Annexation

DATE: April 1, 1987

Our opposition to HB 2480 comes from two viewpoints: first that present law very adequately and fairly addresses the concerns of both cities and rural water districts on this issue, and second as a matter of general philosophy and principle.

Only last year, the legislature established a detailed procedure providing for fair compensation to a rural water district for the value of facilities acquired following annexation. This Committee was instrumental in drafting that legislation. After several recent annexations, the City of Olathe has just begun negotiations with one of our neighboring rural water districts in an effort to follow this statute. We suggest the new procedure be given a fair chance to work before it is changed.

We believe that municipalities are the logical providers of general government services, especially water, as a fringe area evolves from rural to urban density in a growing community. Efficient, economical water service as well as adequate fire protection for residential subdivisions, commercial establishments, and industry demands this. As a matter of principle, we are opposed to legislation that helps perpetuate the existence of special districts serving non-farm customers.

We believe cities should be in a position to provide all municipal services to developing areas when annexation is requested or is imminent. Indeed, this is one of the most fundamental principles of the new annexation bill just entrusted to the people of Kansas by the Legislature. Olathe already supplies some or all the water requirements of five rural water districts surrounding our City. Following annexation, it is only logical that responsibility for water service be assumed by the City after fair compensation to these districts. This is what is provided in current law, and we urge the Committee to see that this Bill goes no further.

(ATTACHMENT XI) LOCAL GO 4/1/87

This testimony was presented by Don Seifert

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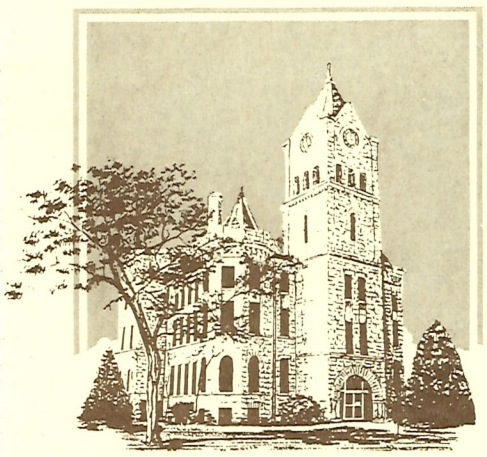

McPHERSON COUNTY

TESTIMONY ON HOUSE BILL NO. 2507
BEFORE THE SENATE LOCAL GOVERNMENT COMMITTEE

BY

JOHN C. MAGNUSON, CHAIRMAN
ON BEHALF OF
THE BOARD OF MCPHERSON COUNTY COMMISSIONERS
April 1, 1987

Currently, K.S.A. 19-3632 restricts the governing body of any fire district from operating an ambulance service within or without such districts, if the county's population does not fall between 15,000 and 25,000 persons. McPherson County's most recent census projections places our total population at 27,289. Thus, the three (3) McPherson County Fire Districts, which have established and now operate volunteer ambulance services, do not appear to have the authority to do so.

The amendment suggested by House Bill No. 2507 would insure that those fire districts operating volunteer ambulance services in McPherson County would not be in technical violation of this statute. These volunteer ambulance services provide a reliable and much needed service to many residents of the County. It would not be beneficial to limit the authorized operation of these important emergency medical services due solely to growth in the county's population.

Additionally, McPherson County's size mitigates the advantages accruing from a county-wide service vs. the operation of individual services, which are financially supported, in part, by the County. A locally supported and operated volunteer ambulance service in McPherson County is more efficient, from both a cost and service perspective. The statutory authority to continue their operation appears to be an appropriate legislative reponse to the need for the continued provision of ambulance services in McPherson County.

We would respectfully request the Committe's support for the suggested amendment.

(ATTACHMENT XII) LOCAL GO 4/1/87

4 XII

McPHERSON COUNTY COMMISSIONERS

McPherson County Courthouse
John C. Magnuson, Chairman District 1
John W. Casebeer District 2
Tony Wedel District 3
P.O. Box 676
Phone No. 316-241-8149

As Amended by House Committee

Session of 1987

HOUSE BILL No. 2357

By Representatives Roy and Acheson

2-11

AN ACT concerning cities; relating to business improvement districts; amending K.S.A. 12-1789 and repealing the existing section.

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

Section 1. K.S.A. 12-1789 is hereby amended to read as follows: 12-1789. *Within 45 days* following publication of an ordinance ~~passed under~~ *establishing a district pursuant to* K.S.A. 12-1788, *and amendments thereto, or the publication of an ordinance levying annual service fees pursuant to K.S.A. 12-1791, and amendments thereto,* the owners of businesses located within the district may file with the governing body of the city a petition in opposition to the continuation of the district. Upon a finding that ~~the~~ petition was signed by not less than a majority of the number of businesses located within the district, the district shall be ~~voided disorganized~~ dissolved *as of the end of that calendar year,* ~~and~~ the governing body ~~shall~~, by ordinance, *shall* repeal the ordinance which established the district ~~and~~ *or the ordinance which levied the annual service fees, effective as of the end of that calendar year. After the payment of all costs incurred by the district for that calendar year, the city shall* return any unused *and unencumbered* moneys collected and distribute such moneys back to the businesses on a pro rata basis in the same percentage as such moneys were collected.

Sec. 2. K.S.A. 12-1789 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

or the levying of such service fees

a

opposing the establishment of the district

no service fees shall be levied within the district and

. Upon the finding that a petition opposing the levy of service fees for the ensuing yea was signed by not less than a majority of the number of businesses located within the district, no service fees shall be levied pursuant to the ordinance specified in such petition and the district shall be dissolved

(ATTACHMENT XIII) LOCAL GO 4/1/87