

HOUSE BILL No. 2076

By Committee on Insurance

1-24

1 AN ACT concerning insurance; relating to municipal pools; amending
2 K.S.A. 12-2620 and K.S.A. 2010 Supp. 12-2618 and repealing the
3 existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2010 Supp. 12-2618 is hereby amended to read as
7 follows: 12-2618. Application for a certificate of authority to operate a
8 pool shall be made to the commissioner of insurance not less than ~~30~~ 60
9 days prior to the proposed inception date of the pool. The application
10 shall include the following:

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

16 (b) Designation of the initial board of trustees and administrator.
17 When there is a change in the membership of the board of trustees or
18 change of administrator, the pool shall notify the commissioner within 30
19 days after such change.

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

23 (d) Evidence that the annual Kansas gross premium of the pool will
24 be not less than \$250,000 for each of the categories described in
25 subparagraphs (1) through (4) of this subsection: (1) All property
26 insurance under article 9 of chapter 40 of the Kansas Statutes Annotated
27 except motor vehicle physical damage; (2) motor vehicle liability and
28 physical damage insurance; (3) workers' compensation and employers'
29 liability insurance; (4) all casualty insurance under article 11 of chapter
30 40 of the Kansas Statutes Annotated except insurance under categories
31 (2) and (3) above; (5) group sickness and accident insurance if at the date
32 of issue the annual gross premium for such coverage will be not less than
33 \$1,000,000; and (6) group life insurance if at the date of issue the
34 coverage will insure at least 60% of the eligible participants or the total
35 number of persons covered will exceed 600. The pool shall notify the
36 commissioner within 30 days if the minimum premium qualification or

1 participation requirement is less than that specified in this subsection for
2 any of the above categories of insurance.

3 (e) An agreement binding the group and each member thereof to
4 comply with the provisions of the workers compensation act if such
5 coverage is to be provided by the pool. For all lines of coverage, all
6 members of the pool shall be jointly liable for the payment of claims to
7 the extent of the assets of the pool.

8 (f) A copy of the procedures adopted by the pool to provide services
9 with respect to underwriting matters and, with respect to the categories
10 identified in subsection (d)(1) through (4), safety engineering.

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

13 (h) A confirmation that specific and aggregate excess insurance
14 provided by an insurance company holding a Kansas certificate of
15 authority or reinsurance approved by the commissioner is or will be in
16 effect concurrent with the assumption of risk by the pool, as selected by
17 the board of trustees of the pool, or adequate surplus funds as approved
18 by the commissioner, in the pool. The pool shall notify the commissioner
19 within 30 days of any change in the specific or aggregate excess
20 insurance or reinsurance carried by the pool. For the purposes hereof,
21 "surplus funds" shall mean retained earnings of the pool after reserves
22 have been established for all known and incurred but not reported losses
23 of the pool and after all other liabilities of the pool, including unearned
24 premium reserves, have been deducted from total assets. The term
25 "adequate surplus funds" shall mean the amount necessary for the pool to
26 fund its self-insured obligations.

27 (i) After evaluating the application the commissioner shall notify the
28 applicant if the plan submitted is inadequate, fully explaining to the
29 applicant what additional requirements must be met. If the application is
30 denied, the applicant shall have 10 days to make an application for
31 hearing by the commissioner after the denial notice is received. A record
32 shall be made of such hearing, and the cost thereof shall be assessed
33 against the applicant requesting the hearing.

34 (j) Any other relevant factors the commissioner may deem
35 necessary.

36 Sec. 2. K.S.A. 12-2620 is hereby amended to read as follows: 12-
37 2620. (a) All certificates granted hereunder shall be perpetual unless
38 sooner suspended or revoked by the commissioner or the attorney
39 general.

40 (b) Whenever the commissioner shall deem it necessary the
41 commissioner may make, or direct to be made, an examination of the
42 affairs and the financial condition of any pool, except that once every five
43 years the commissioner shall conduct an examination of the affairs and

1 the financial condition of each pool. Each pool shall submit a certified
2 independent audited financial statement no later than ~~90~~ 150 days after
3 the end of the fiscal year. The financial statement shall include
4 outstanding reserves for claims and for claims incurred but not reported.
5 Each pool shall file reports as to income, expenses and loss data at such
6 times and in such manner as the commissioner shall require. Any pool
7 which does not use rates developed by an approved rating organization
8 shall file with the commissioner an actuarial certification that such rates
9 are actuarially sound. Whenever it appears to the commissioner from
10 such examination or other satisfactory evidence that the ability to pay
11 current and future claims of any such pool is impaired, or that it is doing
12 business in violation of any of the laws of this state, or that its affairs are
13 in an unsound condition so as to endanger its ability to pay or cause to be
14 paid claims in the amount, manner and time due, the commissioner shall,
15 before filing such report or making the same public, grant such pool upon
16 reasonable notice a hearing, and, if on such hearing the report be
17 confirmed, the commissioner may require any of the actions allowed
18 under K.S.A. 40-222b and amendments thereto or suspend the certificate
19 of authority for such pool until its ability to pay current and future claims
20 shall have been fully restored and the laws of the state fully complied
21 with. The commissioner may, if there is an unreasonable delay in
22 restoring the ability to pay claims of such pool and in complying with the
23 law or if rehabilitation or corrective action taken under K.S.A. 40-222b
24 and amendments thereto is unsuccessful, revoke the certificate of
25 authority of such pool to do business in this state. Upon revoking any
26 such certificate the commissioner shall communicate the fact to the
27 attorney general, whose duty it shall be to commence and prosecute an
28 action in the proper court to dissolve such pool or to enjoin the same from
29 doing or transacting business in this state. The commissioner of
30 insurance may call a hearing under K.S.A. 40-222b, and amendments
31 thereto, and the provisions thereof shall apply to group-funded pools.

32 (c) On an annual basis, or within 30 days of any change thereto,
33 each pool shall supply to the commissioner the name and qualifications of
34 the designated administrator of the pools and the terms of the specific and
35 aggregate excess insurance contracts of the pool.

36 Sec. 3. K.S.A. 12-2620 and K.S.A. 2010 Supp. 12-2618 are hereby
37 repealed.

38 Sec. 4. This act shall take effect and be in force from and after its
39 publication in the statute book.