

HB # 2003

FILED

2003 MAR 27 P 4: 07

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2003

(By Delegate Amores)



Passed March 8, 2003

In Effect Ninety Days from Passage

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E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2003

(BY DELEGATE AMORES)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section fourteen, and to amend and reenact section sixteen, article twelve-a of said chapter, relating to authorizing political subdivisions to establish and maintain self-insurance pools; authorizing the board of risk and insurance management to propose rules dealing with insurance programs; authorizing West Virginia insurance agents to establish and write policies for self-insurance programs and pools; and requiring the insurance commissioner to propose legislative rules relating to self-insurance programs and pools for political subdivisions.

Be it enacted by the Legislature of West Virginia:

That article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section fourteen, and that section sixteen, article twelve-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 12. STATE INSURANCE.

§29-12-14. Promulgation of rules.

1 The board of risk and insurance management is authorized
2 to propose rules for legislative approval, pursuant to the
3 provisions of article three, chapter twenty-nine a of this code,
4 that are necessary to administer the powers and duties of the
5 board, including but not limited to, rules setting minimum
6 contract terms for entities participating in insurance programs
7 and mandatory waiting periods for reentry into insurance
8 programs for entities which have terminated coverage through
9 the board.

ARTICLE 12A. GOVERNMENTAL TORT CLAIMS AND INSURANCE REFORM ACT.

§29-12A-16. Procurement of liability insurance and self-insurance.

1 (a) A political subdivision may use public funds to secure
2 insurance with respect to its potential liability and that of its
3 employees for damages in civil actions for injury, death or loss
4 to persons or property allegedly caused by an act or omission of
5 the political subdivision or any of its employees, including
6 insurance coverage procured through the state board of risk and
7 insurance management. The insurance may be at the limits for
8 the circumstances, and subject to the terms and conditions that
9 are determined by the political subdivision in its discretion.

10 The insurance may be for the period that is set forth in
11 specifications for competitive bids or, when competitive

12 bidding is not required, for the period that is mutually agreed
13 upon by the political subdivision and insurance company. The
14 period does not have to be, but can be, limited to the fiscal
15 cycle under which the political subdivision is funded and
16 operates.

17 (b)(1) Regardless of whether a political subdivision
18 procures a policy or policies of liability insurance pursuant to
19 subsection (a) of this section or otherwise:

20 (A) Any political subdivision may establish and maintain
21 a self-insurance program relative to its potential liability and
22 that of its employees for damages in civil actions for injury,
23 death, or loss to persons or property allegedly caused by an act
24 or omission of the political subdivision or any of its employees;
25 or

26 (B) Any group of two or more political subdivisions may
27 establish and maintain a self-insurance pool relative to their
28 collective potential liability and that of their collective employ-
29 ees for damages in civil actions for injury, death or loss to
30 persons or property allegedly caused by an act or omission of
31 the political subdivision or any of its employees.

32 (2) If it so chooses, the political subdivision or group of
33 political subdivisions may contract with any person, any
34 licensed West Virginia insurance agent, other political subdivi-
35 sion, municipal association, county association or regional
36 council of governments for purposes of the administration of
37 the program or pool.

38 (c) Political subdivisions that have established self-insur-
39 ance programs relative to their potential liability and that of
40 their employees, as described in subdivision (A), subsection
41 (b)(1) of this section, may mutually agree that their self-
42 insurance programs may be jointly administered in a specified
43 manner.

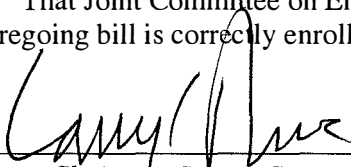
44 (d) The purchase of liability insurance, or the establishment
45 and maintenance of a self-insurance program, by a political
46 subdivision does not constitute a waiver of any immunity it may
47 have pursuant to this article or any defense of the political
48 subdivision or its employees.

49 (e) The authorization for political subdivisions to secure
50 insurance and to establish and maintain self-insurance programs
51 and pools, as set out in subsections (a) and (b) in this section,
52 are in addition to any other authority to secure insurance or to
53 establish and maintain self-insurance that is granted pursuant to
54 this code or the constitution of this state, and they are not in
55 derogation of any other authorization.

56 (f) An insurance agent licensed in West Virginia is autho-
57 rized to establish or write policies for a self-insurance program
58 or pool for political subdivisions, pursuant to the provisions of
59 this section.

60 (g) The commissioner of insurance shall propose rules for
61 legislative approval, pursuant to the provisions of chapter
62 twenty-nine-a of this code, setting forth the criteria for estab-
63 lishing and maintaining self-insurance programs and pools for
64 political subdivisions.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



Chairman House Committee

Originating in the House.

In effect ninety days from passage



Clerk of the Senate



Clerk of the House of Delegates

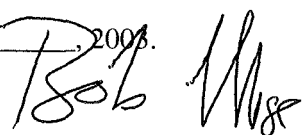


President of the Senate



Speaker of the House of Delegates

The within is approved this the 27th
day of March, 2003.



Governor

SENT TO THE
GOVERNOR

Date 3/24/03

Time 10:35 AM