WEST VIRGINIA CODE: §29-12A-16

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

(a) A political subdivision may use public funds to secure insurance with respect to its potential liability and that of its employees for damages in civil actions for injury, death or loss to persons or property allegedly caused by an act or omission of the political subdivision or any of its employees, including insurance coverage procured through the State Board of Risk and Insurance Management. The insurance may be at the limits for the circumstances, and subject to the terms and conditions that are determined by the political subdivision in its discretion.

The insurance may be for the period that is set forth in specifications for competitive bids or, when competitive bidding is not required, for the period that is mutually agreed upon by the political subdivision and insurance company. The period does not have to be, but can be, limited to the fiscal cycle under which the political subdivision is funded and operates.

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

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

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

(2) Beginning July 1, 2010, any group of two or more political subdivisions may, upon approval of the Insurance Commissioner, establish and maintain a self-insurance pool to insure their workers' compensation risks: Provided, That political subdivisions may not make application to the Insurance Commissioner to operate a risk pool until rules promulgated pursuant to subsection (g) of this section regulating such programs have been made effective.

(3) If it so chooses, the political subdivision or group of political subdivisions may contract with any person, any licensed West Virginia insurance agent, other political subdivision, municipal association, county association or regional council of governments for purposes of the administration of the program or pool.

(c) Political subdivisions that have established self-insurance programs relative to their potential liability and that of their employees, as described in paragraph (A), subdivision (1),

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subsection (b) of this section, may mutually agree that their self-insurance programs may be jointly administered in a specified manner.

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

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

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

(g) The Insurance Commissioner shall propose rules for legislative approval, pursuant to the provisions of chapter twenty-nine-a of this code, setting forth the criteria for establishing and maintaining self-insurance programs and pools for political subdivisions, and may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code.

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