WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2003

(By Delegate Amores)

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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
to propose rules for legislative approval, pursuant to the
provisions of article three, chapter twenty-nine a of this code,
that are necessary to administer the powers and duties of the
board, including but not limited to, rules setting minimum
contract terms for entities participating in insurance programs
and mandatory waiting periods for reentry into insurance
programs for entities which have terminated coverage through
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
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.

10 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) 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 subdivision (A), subsection (b)(1) 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 commissioner of insurance 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.
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, 2006.

Governor
DISTRIBUTED TO THE GOVERNOR

Date 3/24/03

Time 10:35am