

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 573

Introduced by Brewer, 43.

Read first time January 22, 2019

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Intergovernmental Risk Management Act;
- 2 to amend section 44-4306, Reissue Revised Statutes of Nebraska; to
- 3 change provisions relating to risk management pool agreements; and
- 4 to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-4306, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 44-4306 Any agreement entered into for the purpose of establishing
4 and operating a risk management pool shall provide:

5 (1) A financial plan setting forth in general terms the:

6 (a) Types of insurance coverage to be offered by the pool,
7 applicable deductible levels, and maximum level of claims which the pool
8 will self-insure;

9 (b) Amount of cash reserves to be set aside for the payment of
10 claims. With the permission of the Director of Insurance, such amount may
11 be expressed as a dollar amount or as a fraction of risks pooled. The
12 amount of cash reserves shall be calculated based on the different types
13 of insurance coverage offered, amounts covered, claims experience,
14 economic stability, and underwriting risks involved and by considering,
15 among other relevant factors: ÷

16 (i) The volume of individual types of pooled risks or insurance
17 coverage managed by the pool and underwriting factors affecting each
18 group of pooled risks or coverage of such type; and

19 (ii) The aggregate of all insurance or pooled risk coverages managed
20 by the pool and the aggregate of all underwriting factors affecting the
21 entire pool;

22 (c) Amount of standard insurance to be purchased by the pool to
23 provide coverage over and above the claims which are not to be satisfied
24 directly from the pool's resources; ~~and~~

25 (d) Minimum amount ~~Amount~~ of aggregate excess insurance coverage and
26 specific excess insurance coverage to be purchased in a given fiscal
27 period; and

28 (e) Minimum amount of specific excess insurance coverage to be
29 purchased for each type of insurance coverage offered by the pool in a
30 given fiscal period; and

31 (2) A plan of management setting forth:

1 (a) The means of establishing the governing authority of the pool.
2 (i) The governing authority shall be a board of directors who are elected
3 or appointed officials of member public agencies. The board of directors
4 shall be chosen by an election voted in by the member public agencies.
5 Such election is not subject to the Election Act. (ii) The number of
6 members of the board who are either elected or appointed officials of
7 member public agencies shall not be less than the requisite number of
8 members needed to transact all the business of the pool. (iii) The plan
9 of management shall set forth (A) the manner and method of electing the
10 members of the board of directors, (B) proof that such manner and method
11 has been filed with the Secretary of State, and (C) a provision that the
12 specific election protocol to be followed shall be approved by the
13 Secretary of State prior to the commencement of operations of the pool.
14 Such approval shall be kept current and continuous at all times;
15 (b) A provision requiring that no member of the board of directors
16 may serve for a term longer than XXX consecutive years or for more than
17 XXX terms or XXX partial years each, whichever is longer;
18 (c) A provision requiring that members of the board of directors be
19 elected in staggered elections which assure that no fewer than one third,
20 and no more than one half, of the members are elected in any one year;
21 (d) A provision requiring that elections of members of the board of
22 directors shall be conducted on terms and in a manner approved by the
23 Secretary of State;
24 (e) ~~(b)~~ The responsibility of the board of directors with regard to
25 fixing annual contributions to the pool from members, maintaining
26 reserves, levying and collecting from members assessments for
27 deficiencies, disposing of surpluses, and administering the pool in the
28 event of termination or insolvency;
29 (f) ~~(e)~~ A procedure by which new members may be admitted to and
30 existing members may leave the pool. The procedure shall permit members
31 to withdraw from participation in a pool. Withdrawal shall not affect the

1 obligations of the withdrawing member under any contract or agreement
2 with the pool or impair the payment of any outstanding bonds or any
3 interest on such bonds;

4 (g) ~~(d)~~ The identification of funds and reserves by exposure area;

5 (h) Provisions ~~(e)~~ ~~A provision~~ requiring that all claims shall be
6 adjusted paid promptly, that for all claims a determination of coverage
7 and liability shall be made promptly, and that all claims shall be
8 settled and resolved promptly or defended on their merits if it is
9 determined that they are of doubtful merit or validity;

10 (i) ~~(f)~~ A provision requiring that no part of the ~~net earnings or~~
11 assets, income, or net earnings of the pool shall inure to the benefit of
12 any private person or organization of any kind;

13 (j) A provision requiring that no part of the assets, income, or net
14 earnings of the pool shall be used for commercial sponsorships, branding,
15 co-branding, or promotions except to the extent that such efforts are
16 made by parties expressly contracted to do so. Such contracts shall be
17 for terms of service not to exceed one year, shall not be renewable, and
18 shall provide for compensation which is commercially reasonable;

19 (k) ~~(g)~~ A provision requiring that, upon dissolution of the pool,
20 all of the assets of the pool will vest in member public agencies in the
21 manner set forth in the plan of management;

22 (l) ~~(h)~~ A system or program of loss control; and

23 (m) ~~(i)~~ Any other standards, procedures, or practices necessary or
24 desirable for the continued operation of the pool as directed by the
25 board of directors or required by the Director of Insurance, except that
26 the Director of Insurance shall not impose requirements that are greater
27 than those imposed upon a commercial insurance company licensed to
28 transact business in Nebraska.

29 Sec. 2. Original section 44-4306, Reissue Revised Statutes of
30 Nebraska, is repealed.