

AN ACT concerning government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Intergovernmental Cooperation Act is amended by changing Section 6 as follows:

(5 ILCS 220/6) (from Ch. 127, par. 746)

Sec. 6. Joint self-insurance. An intergovernmental contract may, among other undertakings, authorize public agencies to jointly self-insure and authorize each public agency member of the contract to utilize its funds to pay to a joint insurance pool its costs and reserves to protect, wholly or partially, itself or any public agency member of the contract against liability or loss in the designated insurable area.

A joint insurance pool shall have an annual audit performed by an independent certified public accountant and shall file an annual audited financial report with the Director of Insurance no later than 150 days after the end of the pool's immediately preceding fiscal year. The Director of Insurance shall issue rules necessary to implement this audit and report requirement. The rule shall establish the due date for filing the initial annual audited financial report. Within 30 days after January 1, 1991, and within 30 days after each January 1 thereafter,

public agencies that are jointly self-insured to protect against liability under the Workers' Compensation Act and the Workers' Occupational Diseases Act shall file with the Illinois Workers' Compensation Commission a report indicating an election to self-insure.

The joint insurance pool shall also annually file with the Director a statement of actuarial opinion by an independent actuary who is an associate or fellow in a casualty actuarial society that the pool's reserves are in accordance with sound loss-reserving standards and adequate for the payment of claims. This opinion shall be filed no later than 150 days after the end of each fiscal year. The joint insurance pool shall be exempt from filing a statement of actuarial opinion by an independent actuary who is an associate or fellow in a casualty actuarial society that the joint insurance pool's reserves are in accordance with sound loss-reserving standards and payment of claims for the primary level of coverage if the joint insurance pool files with the Director, by the reporting deadline, a statement of actuarial opinion from the provider of the joint pool's aggregate coverage, reinsurance, or other similar excess insurance coverage.

The Director may assess penalties against a joint insurance pool that fails to comply with the auditing, statement of actuarial opinion, and examination requirements of this Section in an amount equal to \$500 per day for each violation, up to a maximum of \$10,000 for each violation. The Director (or

his or her staff) or a Director-selected independent auditor (or actuarial firm) that is not owned or affiliated with an insurance brokerage firm, insurance company, or other insurance industry affiliated entity may examine, as often as the Director deems advisable, the affairs, transactions, accounts, records, and assets and liabilities of each joint insurance pool that fails to comply with this Section. The joint insurance pool shall cooperate fully with the Director's representatives in all evaluations and audits of the joint insurance pool and resolve issues raised in those evaluations and audits. The failure to resolve those issues may constitute a violation of this Section, and may, after notice and an opportunity to be heard, result in the imposition of penalties pursuant to this Section. No sanctions under this Section may become effective until 30 days after the date that a notice of sanctions is delivered by registered or certified mail to the joint insurance pool. The Director shall have the authority to extend the time for filing any statement by any joint insurance pool for reasons that he or she considers good and sufficient.

If a joint insurance pool requires a member to submit written notice in order for the member to withdraw from a qualified pool, then the period in which the member must provide the written notice cannot be greater than 120 days, except that this requirement applies only to joint insurance pool agreements entered into, modified, or renewed on or after the effective date of this amendatory Act of the 98th General

Assembly.

For purposes of this Section, "public agency member" means any public agency defined or created under this Act, any local public entity as defined in Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act, and any public agency, authority, instrumentality, council, board, service region, district, unit, bureau, or, commission, or any municipal corporation, college, or university, whether corporate or otherwise, and any other local governmental body or similar entity that is presently existing or created after the effective date of this amendatory Act of the 92nd General Assembly, whether or not specified in this Section. Only public agency members with tax receipts, tax revenues, taxing authority, or other resources sufficient to pay costs and to service debt related to intergovernmental activities described in this Section, or public agency members created by or as part of a public agency with these powers, may enter into contracts or otherwise associate among themselves as permitted in this Section.

No joint insurance pool or other intergovernmental cooperative offering health insurance shall interfere with the statutory obligation of any public agency member to bargain over or to reach agreement with a labor organization over a mandatory subject of collective bargaining as those terms are used in the Illinois Public Labor Relations Act. No intergovernmental contract of insurance offering health

insurance shall limit the rights or obligations of public agency members to engage in collective bargaining, and it shall be unlawful for a joint insurance pool or other intergovernmental cooperative offering health insurance to discriminate against public agency members or otherwise retaliate against such members for limiting their participation in a joint insurance pool as a result of a collective bargaining agreement.

It shall not be considered a violation of this Section for an intergovernmental contract of insurance relating to health insurance coverage, life insurance coverage, or both to permit the pool or cooperative, if a member withdraws employees or officers into a union-sponsored program, to re-price the costs of benefits provided to the continuing employees or officers based upon the same underwriting criteria used by that pool or cooperative in the normal course of its business, but no member shall be expelled from a pool or cooperative if the continuing employees or officers meet the general criteria required of other members.

(Source: P.A. 93-721, eff. 1-1-05; 94-685, eff. 11-2-05.)