

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1024

Introduced by Clements, 2.

Read first time January 16, 2020

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Intergovernmental Risk Management Act;
2 to amend sections 44-4305, 44-4306, 44-4307, and 44-4311, Reissue
3 Revised Statutes of Nebraska; to subject risk management pools to
4 the Unfair Insurance Trade Practices Act; to change provisions
5 relating to the board of directors of a risk management pool; to
6 provide procedures for dissolution as prescribed; to provide for
7 issuance of corrective orders; to provide an operative date; and to
8 repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-4305, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 44-4305 (1) Any risk management pool organized pursuant to the
4 Intergovernmental Risk Management Act, whether or not a body corporate,
5 shall have the power to sue and be sued, make contracts, hold and dispose
6 of real and personal property, borrow money, contract debt, and pledge
7 any pool assets in the name of the pool.

8 (2) The power to make contracts prescribed in subsection (1) of this
9 section shall specifically include the power to establish the risk
10 management pool as a separate legal or administrative entity.

11 (3) Every risk management pool organized pursuant to the act shall
12 be subject to the Unfair Insurance Trade Practices Act.

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

15 44-4306 Any agreement entered into for the purpose of establishing
16 and operating a risk management pool shall provide:

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

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

21 (b) Amount of cash reserves to be set aside for the payment of
22 claims;

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

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

28 (2) A plan of management setting forth:

29 (a) The means of electing the members of ~~establishing~~ the governing
30 authority of the pool by member public agencies. (i) The governing
31 authority shall be a board of directors who are elected or appointed

1 officials of member public agencies. (ii) The number of members of the
2 board who are either elected or appointed officials of member public
3 agencies shall not be less than the requisite number of members needed to
4 transact all the business of the pool. (iii) The procedure for removing a
5 member of the board of directors for good cause shown and for filling the
6 vacancy;

7 (b) The responsibility of the board of directors with regard to
8 fixing annual contributions to the pool from members, maintaining
9 reserves, levying and collecting from members assessments for
10 deficiencies, disposing of surpluses, and administering the pool in the
11 event of termination or insolvency;

12 (c) A procedure by which new members may be admitted to and existing
13 members may leave the pool. The procedure shall permit members to
14 withdraw from participation in a pool. Withdrawal shall not affect the
15 obligations of the withdrawing member under any contract or agreement
16 with the pool or impair the payment of any outstanding bonds or any
17 interest on such bonds;

18 (d) The identification of funds and reserves by exposure area;

19 (e) A provision requiring that all claims shall be paid promptly;

20 (f) A provision requiring that no part of the net earnings or assets
21 of the pool shall inure to the benefit of any private person;

22 (g) A provision requiring that, upon dissolution of the pool, all of
23 the assets of the pool will vest in member public agencies in the manner
24 set forth in the plan of management;

25 (h) A system or program of loss control; and

26 (i) Any other standards, procedures, or practices necessary or
27 desirable for the continued operation of the pool.

28 Sec. 3. Section 44-4307, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 44-4307 (1) A risk management pool shall not provide any form of
31 group self-insurance to its members until it has received a certificate

1 of authority to do so from the Department of Insurance. Such certificate
2 shall expire on the last day of April in each year and shall be renewed
3 annually thereafter if the risk management pool has continued to comply
4 with the Intergovernmental Risk Management Act and the rules and
5 regulations of the Department of Insurance adopted and promulgated
6 thereunder.

7 (2) The Department of Insurance shall issue a certificate of
8 authority to a risk management pool if the Director of Insurance
9 determines:

10 (a) That the pool's financial plan and plan of management and any
11 amendments thereto satisfy the requirements of section 44-4306;

12 (b) That the pool has adequate surplus and reserves and will receive
13 adequate financial contributions from its members in order to operate in
14 a manner which is not hazardous to the public; and

15 (c) That any individual, corporation, partnership, limited liability
16 company, or other entity engaged by the pool to provide services in
17 connection with its management or operation is capable of running the
18 affairs of the pool, is of good character and known business ability, and
19 has a practical knowledge of the executive duties of conducting a risk
20 management pool.

21 (3) The filing fee for a certificate of authority issued pursuant to
22 the Intergovernmental Risk Management Act shall be one thousand dollars.

23 (4) If the department finds just cause, after notice and a hearing,
24 not to renew a certificate of authority, the risk management pool shall
25 be dissolved as provided in the Nebraska Insurers Supervision,
26 Rehabilitation, and Liquidation Act.

27 Sec. 4. Section 44-4311, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 44-4311 (1) The Director of Insurance may, after notice and a
30 hearing, issue corrective orders to a risk management pool that is not
31 complying with the Intergovernmental Risk Management Act or the rules and

1 regulations adopted and promulgated under the act. If a risk management
2 pool does not comply with a corrective order, the director may remove one
3 or more members of the board of directors of the pool or one or more
4 members of the executive management of the pool or both.

5 (2) A risk management pool shall not be voluntarily dissolved or
6 otherwise cease to function without written approval by the Director of
7 Insurance after the director ~~he or she~~ has determined that all claims and
8 other legal obligations of the pool have been paid or that adequate
9 provisions for such payment have been made.

10 Sec. 5. This act becomes operative on January 1, 2021.

11 Sec. 6. Original sections 44-4305, 44-4306, 44-4307, and 44-4311,
12 Reissue Revised Statutes of Nebraska, are repealed.