A-Engrossed
House Bill 3452

Ordered by the House June 15
Including House Amendments dated June 15

Sponsored by Representative BUTLER; Representatives KRIEGER, RILEY, WITT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies requirements for self-insurance programs established by three or more public bodies. [*Eliminates requirement for unallocated reserve account if program purchases aggregate stop-loss insurance and maintains adequate reserves for purposes of claims not covered by stop-loss insurance.*]

A BILL FOR AN ACT

Relating to public body self-insurance programs; amending ORS 30.282.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 30.282 is amended to read:

30.282. (1) The governing body of any local public body may procure insurance against:

(a) Tort liability of the public body and its officers, employees and agents acting within the scope of their employment or duties; or

(b) Property damage.

(2) In addition to, or in lieu of procuring insurance, the governing body may establish a self-insurance program against the tort liability of the public body and its officers, employees and agents or against property damage. If the public body has authority to levy taxes, it may include in its levy an amount sufficient to establish and maintain a self-insurance program on an actuarially sound basis.

(3) Notwithstanding any other provision of law, two or more local public bodies may jointly provide by intergovernmental agreement for anything that subsections (1) and (2) of this section authorize individually.

(4) As an alternative or in addition to establishment of a self-insurance program or purchase of insurance or both, the governing body of any local public body and the Oregon Department of Administrative Services may contract for payment by the public body to the department of assessments determined by the department to be sufficient, on an actuarially sound basis, to cover the potential liability of the public body and its officers, employees or agents acting within the scope of their employment or duties under ORS 30.260 to 30.300, and costs of administration, or to cover any portion of potential liability, and for payment by the department of valid claims against the public body and its officers, employees and agents acting within the scope of their employment or duties. The department may provide the public body evidence of insurance by issuance of a certificate or policy.

(5) Assessments paid to the department under subsection (4) of this section shall be paid into the Insurance Fund created under ORS 278.425, and claims paid and administrative costs incurred under subsection (4) of this section shall be paid out of the Insurance Fund, and moneys in the Insurance

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

Fund are continuously appropriated for those purposes. When notice of any claim is furnished as provided in the agreement, the claim shall be handled and paid, if appropriate, in the same manner as a claim against a state agency, officer, employee or agent, without regard to the amount the local public body has been assessed.

(6) A self-insurance program established by three or more public bodies under subsections (2) and (3) of this section is subject to the following requirements:

(a) The annual contributions to the program must amount in the aggregate to at least $1 million. **The required $1 million in annual contributions is in addition to any amounts paid by the participating public bodies for the purpose of acquiring excess insurance for the self-insurance program.**

(b) The program must provide documentation that defines program benefits and administration.

(c) Program contributions and reserves must be held in separate accounts and used for the exclusive benefit of the program.

(d) The program must maintain adequate reserves. Reserve adequacy shall be calculated annually with proper actuarial calculations including the following:

(A) Known claims, paid and outstanding;

(B) Estimate of incurred but not reported claims;

(C) Claims handling expenses;

(D) Unearned contributions; and

(E) A claims trend factor.

(e) The program must maintain an unallocated **surplus** reserve account equal to 25 percent of annual contributions, or $250,000, whichever is greater. **The unallocated surplus reserve account may not be funded by a note, letter of credit or other debt instrument.** As used in this paragraph, "unallocated **surplus** reserves" means the amount of funds determined by a licensed independent actuary to be greater than what is required to fund outstanding claim liabilities, including an estimate of claims incurred but not reported.

(f) The program must make an annual independently audited financial statement available to the participants of the program.

(g) The program must maintain adequate excess or reinsurance against the risk of economic loss.

(h) The program, a third party administrator or an owner of a third party administrator may not collect commissions or fees from an insurer.

(7) A program operated under subsection (6) of this section that fails to meet any of the listed requirements for a period longer than 30 consecutive days shall be dissolved and any unallocated reserves returned in proportional amounts based on the contributions of the public body to the public bodies that established the program within 90 days of the failure.

(8) A public body as defined in ORS 30.260 (4)(b), (c) or (d) may bring an action against a program operated under subsection (6) of this section if the program fails to comply with the requirements listed in subsection (6) of this section.