

House Bill 3452

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 **as introduced**.

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

1
2 Relating to public body self-insurance programs; amending ORS 30.282.

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

4 **SECTION 1.** ORS 30.282 is amended to read:

5 30.282. (1) The governing body of any local public body may procure insurance against:

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

8 (b) Property damage.

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

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

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

26 (5) Assessments paid to the department under subsection (4) of this section shall be paid into the
27 Insurance Fund created under ORS 278.425, and claims paid and administrative costs incurred under
28 subsection (4) of this section shall be paid out of the Insurance Fund, and moneys in the Insurance
29 Fund are continuously appropriated for those purposes. When notice of any claim is furnished as
30 provided in the agreement, the claim shall be handled and paid, if appropriate, in the same manner

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.

1 as a claim against a state agency, officer, employee or agent, without regard to the amount the local
 2 public body has been assessed.

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

5 (a) The annual contributions to the program must amount in the aggregate to at least \$1 million.

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

7 (c) Program contributions and reserves must be held in separate accounts and used for the ex-
 8 clusive benefit of the program.

9 (d) The program must maintain adequate reserves. Reserve adequacy shall be calculated annu-
 10 ally with proper actuarial calculations including the following:

11 (A) Known claims, paid and outstanding;

12 (B) Estimate of incurred but not reported claims;

13 (C) Claims handling expenses;

14 (D) Unearned contributions; and

15 (E) A claims trend factor.

16 (e) The program must maintain an unallocated reserve account equal to 25 percent of annual
 17 contributions, or \$250,000, whichever is greater. As used in this paragraph, "unallocated reserves"
 18 means the amount of funds determined by a licensed independent actuary to be greater than what
 19 is required to fund outstanding claim liabilities, including an estimate of claims incurred but not
 20 reported. **The requirements of this paragraph do not apply if the program purchases aggre-
 21 gate stop-loss insurance and maintains adequate reserves for purposes of claims not covered
 22 by the stop-loss insurance.**

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

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

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

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

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

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