

House Bill 3107

Sponsored by Representative WITT; Representative BENTZ

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 unallocated reserve account requirements for self-insurance program established by three or more public bodies. Provides that if program has acquired excess insurance or reinsurance, account must be in amount adequate to cover claims not covered by excess insurance or reinsurance.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to self-insurance programs of public bodies; amending ORS 30.282; and declaring an emer-
3 gency.

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

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

6 30.282. (1) The governing body of any local public body may procure insurance against:

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

9 (b) Property damage.

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

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

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

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

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 provided in the agreement, the claim shall be handled and paid, if appropriate, in the same manner
 2 as a claim against a state agency, officer, employee or agent, without regard to the amount the local
 3 public body has been assessed.

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

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

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

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

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

12 (A) Known claims, paid and outstanding;

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

14 (C) Claims handling expenses;

15 (D) Unearned contributions; and

16 (E) A claims trend factor.

17 (e) The program must maintain an unallocated reserve account. **If the program has not ac-**
 18 **quired excess insurance or reinsurance, the amount of the account must be** equal to 25 per-
 19 cent of annual contributions, or \$250,000, whichever is greater. **If the program has acquired**
 20 **excess insurance or reinsurance, the amount of the account must be adequate to cover**
 21 **claims not covered by the excess insurance or reinsurance.** As used in this paragraph, “unal-
 22 located reserves” means the amount of funds determined by a licensed independent actuary to be
 23 greater than what is required to fund outstanding claim liabilities, including an estimate of claims
 24 incurred but not reported.

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

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

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

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

34 (8) A local public body may bring an action against a program operated under subsection (6) of
 35 this section if the program fails to comply with the requirements listed in subsection (6) of this
 36 section.

37 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**
 38 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
 39 **on its passage.**