

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1525

H. P. 1183

House of Representatives, March 26, 1979

On Motion of Mr. Connolly of Portland, referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. LaPlante of Sabattus.

Cosponsors: Mr. McMahon of Kennebunk, Mrs. Post of Owl's Head and Ms. Lund of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Provide for a Self-insurance Fund for State Elementary and Secondary School Property.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA c. 154 is enacted to read:

CHAPTER 154

INSURANCE FUND FOR SCHOOL PROPERTY

§ 1781. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. School property. "School property" means that property in the care and custody of the superintendent of the administrative unit as provided in Title 20, section 473.

§ 1782. Maine school insurance program

The Maine school insurance program is established to provide insurance coverage for all state elementary and secondary schools in Maine. All state

elementary and secondary schools shall be included in this program. For the purposes of this program, the State shall have an insurable interest in state elementary and secondary schools, notwithstanding any other interest held by the State or any other governmental entities.

§ 1783. The Maine School Insurance Advisory Board

The Maine School Insurance Advisory Board is hereby created and hereinafter in this chapter called the "board." The board shall provide advice and perform the duties outlined in this chapter. The board shall be composed of 5 members, residents of this state, who shall be appointed by the Governor as follows: One member familiar with risk management shall be selected from the public, one member shall be a superintendent of a school administrative unit and one member shall represent the Department of Educational and Cultural Services, who shall serve for an initial term of 4 years. One member shall be selected from representatives of the insurance industry and one member shall be selected from representatives of the banking industry, who shall serve for an initial term of 3 years. Vacancies shall be filled to serve any vacated unexpired term for the remainder of the term. Appointments thereafter shall be for terms of 4 years each and until their successors are duly appointed and qualified.

No insurance policy or bond issued to the Maine School Insurance Advisory Board shall be placed through any member of the board, his firm or employer during his membership on the board.

§ 1784. Meetings; compensation

The board shall meet at the call of the chairman or at the request of 2 or more members, but not less than 4 times per year. Special meetings shall be held at such times as rules and regulations shall provide. Three members of the board shall constitute a quorum of the board. The board shall annually elect a chairman.

The members of the board shall receive as compensation for their services \$40 a day for the time actually spent in the discharge of their duties, and shall be reimbursed for necessary expenses incurred in the discharge of their duties at the same rates as would apply to employees of the State.

§ 1785. Personnel; selection; duties

The board shall employ a director who has a comprehensive knowledge of insurance practices and principles and who shall administer the duties imposed by this chapter, with the advice of the board.

The director shall assist the board in the discharge of its duties and assist in the preparation of the invitations for bids, as authorized by section 1786.

The board shall employ clerical assistants as necessary.

The board shall employ 2 assistants for terms up to 2 years each qualified to determine the insurable value of school property and perform other duties essential to implement this chapter.

All employees shall be employees of the State and subject to the Personnel Law.

§ 1786. Powers and duties of the board

1. Powers. The board shall:

A. Provide insurance advice and services for the Maine school insurance program;

B. Review annually the entire subject of insurance as it applies to school property and report to the Governor and the Commissioner of Finance and Administration and the Joint Standing Committee on Education a statement of its activities during the year ended the preceding June 30th. This report shall include:

- (1) An evaluation of the Maine school insurance program;**
- (2) A complete statement of all types and costs of insurance in effect;**
- (3) Records and audits as provided in § 1788;**
- (4) Names of agents and companies of record;**
- (5) Valuation of school property; and**
- (6) Such other matters as the board determines to be appropriate and necessary or as the Governor may request;**

C. Recommend to the Governor such insurance protection as the board may deem to be necessary or desirable for the protection of school property;

D. Pursuant to programs approved by the Governor, provide insurance protection for state elementary and secondary school property not presently included in another state program by funded self-insurance as provided or purchase of insurance from companies or agents licensed to do business in this State, or by both, to effect the best possible contracts as to services, coverages and costs. The purchase of insurance under this section normally shall be made upon competitive bidding, except that the board may in appropriate circumstances purchase insurance by negotiation.

In the event of the purchase of insurance upon competitive bidding, the chairman of the board shall announce the low bid at a meeting advertised for the opening of bids, which, when approved by the Governor, shall constitute an award of a contract of insurance;

E. Determine and review the values of school property in which the State has an insurable or legal interest and which are included in this program and recommended limits and types of insurance protection for such property; establish by appraisal the insurable value for the property. For the first year of the fund, the value presently insured by the school administrative unit will serve as the insurable value or until appraised by the board and approved by the administrative unit;

F. Require sound safety engineering and reasonable loss prevention practices; and

G. In accordance with the spirit and intent of the law, make the rules and regulations necessary for the performance of its duties, and for carrying out the purpose of this chapter, in accordance with the Administrative Procedure Act, Title 5, chapter 375.

2. Appraisal. In case an agreement as to the amount of loss sustained to any building or property insured under this chapter cannot be arrived at between the school claimant and the board, such loss shall be referred to appraisal as provided for in Title 24-A, section 3002.

3. Rejection of risk. In the event that the board, by unanimous vote, determines that a risk may be prejudicial to the state's school insurance program, it may refuse to include such risk in the program until such time as hazards of the risk have been removed or ameliorated to a satisfactory degree.

When coverage is declined by the board, the department or agency in charge of the risk may request that the board procure separate insurance thereon from any authorized insurance company, and the premium therefor shall be a proper charge against the school administrative unit.

§ 1787. Removal of members; vacancies

The Governor may remove any member of the board for misconduct, incompetency, neglect of duty or for any other sufficient cause.

The Governor shall, by appointment, fill any vacancy in the membership of the board for the unexpired term.

§ 1788. Records; audit

The board shall keep a record of all its proceedings and expenditures of the board, attested by affidavits of its chairman and secretary.

The board shall have an audit made of its accounts annually covering the last complete fiscal year by the Department of Audit.

The policies for all insurance placed shall be kept on file with the board.

§ 1789. Reserve fund for self-insured retention losses

A reserve fund, hereinafter in this chapter called the "fund," is created to indemnify the State for funded self-insured losses from those perils insured against under a deductible or funded self-insured program, as recommended by the board and approved by the Governor. The fund shall be a continuing fund and shall not lapse.

§ 1790. Administrative expenses, salaries

Salaries for employees, expenses of the board and any capital costs shall be paid by the fund.

§ 1791. Limitation and provision for stop-loss insurance

Deductible or funded self-insured provisions hereunder shall not exceed \$1,000,000 per occurrence with respect to any risk of loss.

The board may recommend to the Governor such reinsurance of the deductible or self-insured amounts hereunder as the board may deem necessary or desirable; and pursuant to programs approved by the Governor, the board may purchase the reinsurance protection from companies or agents licensed to do business in the State.

§ 1792. Additional insurance purchased by school administrative units

In the event that a school administrative unit desires to purchase property insurance coverage in excess of the coverage provided or to purchase insurance for their protection against other losses or claims expected, nothing in this chapter shall limit that right.

§ 1793. Administration

The fund shall be administered by the Commissioner of Finance and Administration. Subject to the approval of the board, the Commissioner of Finance and Administration shall deposit the fund with the Treasurer of State for investment. All proceeds of the investment shall accrue to the fund.

§ 1794. Capitalization of the fund

The fund shall be initially capitalized by contributions from the school administrative units in an amount equal to the premium payments made by the unit in the preceding school year for the coverage to be provided by the fund.

At the board's discretion, the funded self-insured amount will be adjusted in accordance with the capitalization of the fund. Payment to the fund may be reduced or eliminated subject to the ability of the fund to assume anticipated insured claims.

§ 1795. Fund limitation

The fund shall not exceed 2% of the then current value of school all insured or self-insured property protected by the fund as determined by the board.

If the fund reaches or exceeds the maximum amount specified in this section, payments to the fund, as specified in section 1794, shall cease.

Payments to the fund shall not begin again until such time as the amount in the fund drops below the maximum amount specified in this section.

§ 1796. Depletion of fund

In the event that payments from the fund should reduce it below \$1,000,000, the board shall require school administrative units to contribute the amount necessary prorated on the insured value of the school administrative unit school property.

§ 1797. Payment of losses

Pursuant to the recommendation of the board, the Commissioner of Finance and Administration shall cause payments from the fund or proceeds of insurance purchased in accordance with this chapter, or both, to be made available for repair or replacement of insured property and payment of loss adjustment expenses.

No payment shall be made from the fund for any loss not exceeding \$500 and the fund shall pay only that portion of any loss in excess of \$500.

Sec. 2. Effective date. This chapter shall take effect on July 1, 1980.

STATEMENT OF FACT

The purpose of this bill is to establish a self-insurance fund to cover state elementary and secondary school property.