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BILL ANALYSIS

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House Bill 4213 (Substitute H-4)

Sponsor: Representative Mary C. Brown

House Committee: Insurance

Senate Committee: Commerce

Date Completed: 12-1-87

**SUMMARY OF HOUSE BILL 4213
(Substitute H-4) as passed by the House:**

The bill would amend Public Act 138 of 1982, which allows municipal corporations to form self-insurance pools, to:

- Provide for regulation by the Insurance Bureau, including disciplinary action against pools that failed to comply with financial requirements.
- Permit a reduction in the amount of aggregate excess insurance required of pools and permit a cash deposit to serve as an alternative to such insurance.
- Add penalties for misrepresentation.
- Allow nonprofit public transportation corporations (i.e., bus companies that are not public authorities, which already qualify) to participate in pools.

Under the Act, two or more municipalities may, by intergovernmental contract, form a group self-insurance pool to provide casualty, property, automobile, surety and fidelity, and umbrella and excess insurance coverages, but not health insurance coverage. The Act specifies, however, that a group self-insurance pool is not an insurance company or insurer under State law. (As a result, a pool is not subject to the same regulation faced by insurance companies operating in Michigan.)

Filing Requirements

Under the bill, a municipal pool would be required to file the following with the Insurance Bureau:

- A copy of the intergovernmental contract creating the pool, which would have to be submitted immediately upon formation of the pool.
- A copy of each coverage document form.
- A copy of the pool's aggregate excess insurance contract, which the Insurance Commissioner would have to review for compliance with the Act.
- The annual financial statements currently provided to the Department of Treasury.
- An annual certification by an independent actuary that the pool's reserves were adequate. (The bill specifies that pools would have to maintain cash reserves adequate to pay claims.)
- If a pool obtained reinsurance, a copy of the reinsurance contract or, if that were not available, other suitable documentation of coverage.

Compliance

The Insurance Commissioner would be required to examine each municipal self-insurance pool to see if it were complying with the law. If a pool failed to comply with financial requirements, the Commissioner would have to notify the pool (and the State Treasurer), and the pool would have 30 business days to file a plan to restore

compliance. Failure by the pool to file a plan would create a presumption that the pool did not meet financial requirements. If a plan were filed, the Commissioner could grant a pool time to restore compliance if he or she were satisfied that the pool was safe, reliable, and entitled to public confidence, and that the pool would suffer a material financial loss from an immediate conversion of its assets. If the plan were not approved, or if it were approved but the pool was not in compliance one year later, the Commissioner could either grant more time or take action to suspend, revoke, or limit the pool's right to do business.

Violations

If the Commissioner had probable cause to believe that a group self-insurance pool (or anyone else) was in violation of the governing Act, he or she would be required, pursuant to the Administrative Procedures Act, to notify the pool (or other person) in writing of the complaint and of the proceedings being contemplated. Before a notice of hearing was issued, the pool would have to be given an opportunity to confer and discuss the complaint with the Insurance Bureau, and the matter could be disposed of summarily by agreement of the parties. If a hearing were held and the Commissioner determined that a violation existed, the Commissioner would have to put his or her findings and decision in writing and issue a cease and desist order. The Commissioner also could order any of the following:

- Payment of a fine of up to \$500 per violation not to exceed \$5,000 in the aggregate, or a fine of up to \$2,500 per violation with an aggregate of \$25,000 in any six-month period if the pool knew or should have known it was in violation.
- Restitution or refund to an aggrieved person.
- Suspension, limitation, or revocation of the pool's right to conduct business.
- Liquidation and receivership, as with an insurance company.

Violation of a cease and desist order could result in a civil fine of up to \$10,000 per violation.

The bill also would prohibit municipal self-insurance pools from misrepresenting their policies or those of competitors. Such activity would be a misdemeanor punishable by imprisonment for up to 90 days or by a fine of up to \$100 per violation.

Excess Insurance

Currently, municipal self-insurance pools must carry a minimum of \$5 million of aggregate excess insurance. The

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bill would allow the Insurance Commissioner to determine that a lesser amount was adequate. Also, the bill would allow a pool instead to deposit \$5 million (or less) in unimpaired surplus with the State Treasurer, or maintain some combination of aggregate excess insurance and surplus deposit.

MCL 124.5 et al.

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would not have any immediate fiscal implications for the State or local units of government.

Fiscal Analyst: L. Burghardt

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.