



2013 BILL

1 **AN ACT** *to amend* 119.04 (1); and *to create* 120.13 (2m) and 601.415 (11) of the
2 statutes; **relating to:** authorizing two or more school boards to establish a
3 self-insured risk-sharing pool to provide property, liability, and worker's
4 compensation coverage for the school districts.

Analysis by the Legislative Reference Bureau

Current law authorizes a school board to provide for accident insurance covering pupils in the school district. If a school district has at least 100 employees, it may provide health care benefits on a self-insured basis to the employees of the school district, and two or more school districts which together have at least 100 employees may jointly provide health care benefits on a self-insured basis to the employees of the school districts.

This bill authorizes two or more school boards to establish a risk-sharing pool (pool) to provide, on a self-insured basis or as otherwise provided in the bill, property damage coverage for the property of the participating school districts and liability and worker's compensation coverage for the employees and officers of the participating school districts. Under the bill, the insurance provisions of the statutes do not apply to such a pool with respect to providing self-insured coverage or to the self-insured coverage provided by the pool; the pool is not considered to be an insurer; and the coverage provided by the pool on a self-insured basis is not considered to be insurance for purposes of the statutes.

The bill requires each participating school board to employ consultants as needed, including insurance intermediaries, to assist the school board in

BILL

determining the advisability of establishing and participating in a pool; in developing the design of the pool; and in operating the pool if established. A pool may provide any type of coverage that may be provided by an insurer authorized to do a property, liability, or worker's compensation insurance business in this state; invest in the same types of investments in which a school district or municipality may invest under the statutes; and procure reinsurance, excess insurance, or conventional property or liability insurance, including a group policy covering the members of the pool. A pool is required to enter into a mutually agreed upon governance agreement and to submit the name of the pool, a list of the pool members, and the designated fiscal year of the pool to the commissioner of insurance (commissioner) within 30 days after being established. A pool must submit copies of its certified financial statements to the commissioner annually within 180 days after the end of its fiscal year and may be subject to examination by the commissioner and assessed a forfeiture by the commissioner if it does not timely submit its statements.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 119.04 (1) of the statutes, as affected by 2013 Wisconsin Act 20, is
2 amended to read:

3 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
4 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
5 115.345, 115.363, 115.365 (3), 115.38 (2), 115.415, 115.445, 118.001 to 118.04,
6 118.045, 118.06, 118.07, 118.075, 118.076, 118.10, 118.12, 118.125 to 118.14, 118.145
7 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20,
8 118.223, 118.225, 118.24 (1), (2) (c) to (f), (6), (8), and (10), 118.245, 118.255, 118.258,
9 118.291, 118.292, 118.293, 118.30 to 118.43, 118.46, 118.51, 118.52, 118.53, 118.55,
10 118.56, 120.12 (2m), (4m), (5), and (15) to (27), 120.125, 120.13 (1), (2) (b) to (g), (2m),
11 (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.14, 120.21 (3), and
12 120.25 are applicable to a 1st class city school district and board.

13 **SECTION 2.** 120.13 (2m) of the statutes is created to read:

BILL

1 120.13 **(2m)** SELF-INSURED PROPERTY, LIABILITY, AND WORKER'S COMPENSATION
2 RISK-SHARING POOLS. (a) Establish, with one or more other school boards, a
3 risk-sharing pool to provide, on a self-insured basis or as otherwise provided in this
4 subsection, any of the following:

- 5 1. Coverage for damage to property of the participating school districts.
- 6 2. Liability coverage for employees and officers of the participating school
7 districts.
- 8 3. Worker's compensation coverage for employees and officers of the
9 participating school districts.

10 (b) A risk-sharing pool established under this subsection may do any of the
11 following:

- 12 1. Provide, on a self-insured basis, any type of insurance coverage that may be
13 provided by an insurer authorized to do a property, liability, or worker's
14 compensation insurance business in this state.
- 15 2. Invest in any of the types of investments specified in s. 66.0603 (1m).
- 16 3. Procure reinsurance, excess insurance, or conventional property or liability
17 insurance, including group coverage for members of the risk-sharing pool.

18 (c) A risk-sharing pool established under this subsection shall do all of the
19 following

- 20 1. Enter into a governance agreement that is mutually agreed upon by the
21 founding members of the risk-sharing pool.
- 22 2. No later than 30 days after the risk-sharing pool has been established,
23 submit to the commissioner of insurance the name of the pool, a list of the members
24 of the pool, and the designated fiscal year of the pool.

BILL

1 3. Annually, no later than 180 days after the close of its fiscal year, submit to
2 the commissioner of insurance, in the manner required by the commissioner, copies
3 of its financial statements for that fiscal year, which statements shall be certified by
4 a certified public accountant in accordance with the terms of the governance
5 agreement under subd. 1. The commissioner may extend the time for filing a
6 statement by a risk-sharing pool for reasons that the commissioner considers good
7 and sufficient. If a risk-sharing pool does not timely submit its certified financial
8 statements as required under this subdivision, the commissioner may do any of the
9 following:

10 a. Assess a forfeiture against the pool in the amount of \$500 per day that the
11 pool is out of compliance, up to a maximum amount of \$10,000.

12 b. Examine the affairs, transactions, accounts, records, assets, and liabilities
13 of the pool or require an audit of the pool's financial records by an independent
14 certified public accountant or by an actuarial firm that is not owned or affiliated with
15 an insurance brokerage firm, insurance company, or other entity that is affiliated
16 with the insurance industry. The pool shall cooperate fully in any examination,
17 evaluation, or audit and resolve any issues raised by an examination, evaluation, or
18 audit. If the pool does not resolve all issues to the satisfaction of the commissioner,
19 the commissioner may impose the forfeiture specified in subd. 3. a. Before imposing
20 a forfeiture under this subd. 3. b., however, the commissioner must, at least 30 days
21 before imposing the forfeiture, give the pool written notice of the commissioner's
22 intent to impose the forfeiture and an opportunity to respond to the notice.

23 (d) During the development phase of a risk-sharing pool authorized under this
24 subsection, and after implementation of the risk-sharing pool if established, each
25 participating school board shall employ such consultants as needed, including

BILL

1 intermediaries, as defined in s. 600.03 (28), to assist the school board in analyzing
2 and determining the advisability of establishing and participating in the pool, in
3 developing the design of the pool, and in operating the pool if established.

4 (e) Except as otherwise provided in this subsection, chs. 600 to 655 and any
5 rules promulgated under chs. 600 to 655 do not apply to coverage provided on a
6 self-insured basis by a risk-sharing pool established under this subsection or to a
7 risk-sharing pool established under this subsection with respect to providing
8 coverage on a self-insured basis. A risk-sharing pool established under this
9 subsection shall not be considered an insurer, and coverage provided on a
10 self-insured basis by a risk-sharing pool established under this subsection shall not
11 be considered insurance, for any purpose under the statutes.

12 **SECTION 3.** 601.415 (11) of the statutes is created to read:

13 601.415 (11) SCHOOL DISTRICT SELF-INSURED RISK POOLS. The commissioner shall
14 perform the duties specified to be performed by the commissioner in s. 120.13 (2m)

15 (c) 3.

16 (END)