



## Ohio Revised Code

### Section 3345.203 Joint self-insurance pool.

Effective: April 6, 2017

Legislation: House Bill 384, Senate Bill 3 - 131st General Assembly

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(A) As used in this section:

(1) "Claims expenses" means payment of judgments, settlement of claims, expense, loss, and damage.

(2) "State university or college" has the same meaning as in section 3345.12 of the Revised Code.

(B) Regardless of whether a state university or college secures insurance coverages under division (B)(1), (2), or (3) of section 3345.202 of the Revised Code, the board of trustees of the state university or college may join with other state universities or colleges in establishing and maintaining a joint self-insurance pool to do both of the following:

(1) Provide for payment of claims expenses that arise, or are claimed to have arisen, from an act or omission of the state university or college or any of its employees or other persons authorized by the board while doing either of the following:

(a) Acting in the scope of their employment or official responsibilities;

(b) Being engaged in activities undertaken at the request or direction, or for the benefit, of the state university or college.

(2) Indemnify or hold harmless the state university's or college's employees against such loss or damage.

The joint self-insurance pool shall be pursuant to a written agreement and to the extent that the board considers the pool to be necessary.

(C) All of the following apply to a joint self-insurance pool under this section:



(1) The funds shall be reserved as are necessary, in the exercise of sound and prudent actuarial judgment, to cover potential state university or college and employee liabilities, loss, and damage. A report of aggregate amounts so reserved and aggregate disbursements made from such funds shall be prepared and maintained in the office of the pool administrator described in division (C)(2) of this section. The report shall be prepared and maintained not later than ninety days after the close of the pool's fiscal year.

The report required by this division shall include, but not be limited to, the aggregate of disbursements made for the administration of the pool, including claims paid, costs of the legal representation of state universities or colleges and employees, and fees paid to consultants. The report also shall be accompanied by a written report of a member of the American academy of actuaries certifying whether the amounts reserved conform to the requirements of this division, are computed in accordance with accepted loss reserving standards, and are fairly stated in accordance with sound loss reserving principles.

The pool administrator described in division (C)(2) of this section shall make the report required by this division available for inspection by any person at all reasonable times during regular business hours. Upon the request of such person, the pool administrator shall make copies of the report available at cost within a reasonable period of time. The pool administrator also shall submit a copy of the report to the auditor of state. The report required by this division is in lieu of the records required by division (A) of section 149.431 of the Revised Code.

(2) The board of trustees establishing a joint self-insurance pool may award a contract, without the necessity of competitive bidding, to a pool administrator for purposes of administration of the joint self-insurance pool. A "pool administrator" may be any person, political subdivision, limited liability company organized under Chapter 1705. of the Revised Code, nonprofit corporation organized under Chapter 1702. of the Revised Code, or regional council of governments created under Chapter 167. of the Revised Code. The board shall not enter into such a contract without full, prior, public disclosure of all terms and conditions. The disclosure shall include, at a minimum, a statement listing all representations made in connection with any possible savings and losses resulting from the contract, and potential liability of any state university or college or employee. The proposed contract and statement shall be disclosed and presented at a meeting of the board of trustees of the state



university or college prior to the meeting at which the board of trustees of the state university or college authorizes the contract.

(3) A joint self-insurance pool shall include a contract with a member of the American academy of actuaries for the preparation of the written evaluation of the reserve funds required under division (C)(1) of this section.

(4) A joint self-insurance pool may allocate the costs of funding the pool among the funds or accounts in the treasuries of the state universities or colleges on the basis of their relative exposure and loss experience. A joint self-insurance program may require any deductible under the program to be paid from funds or accounts in the treasury of the state university or college from which a loss was directly attributable.

(D) Two or more state universities or colleges may also authorize the establishment and maintenance of a joint risk-management program, including but not limited to the employment of risk managers and consultants, for the purpose of preventing and reducing the risks covered by insurance, self-insurance, or joint self-insurance programs. A joint risk-management program shall not include fidelity, surety, or guarantee bonding.

(E) A state university or college is not liable under a joint self-insurance pool for any amount in excess of amounts payable pursuant to the written agreement for the participation of the state university or college in the joint self-insurance pool. Under a joint self-insurance pool agreement a state university or college may, to the extent permitted under the written agreement, assume the risks of any other state university or college, including the indemnification of its employees. A joint self-insurance pool, established under this section, is deemed a separate legal entity for the public purpose of enabling the members of the joint self-insurance pool to obtain insurance or to provide for a formalized, jointly administered self-insurance fund for its members. An entity created pursuant to this section is exempt from all state and local taxes.

(F)(1) In the manner provided by and subject to the applicable provisions of section 3345.12 of the Revised Code, any state university or college may issue obligations and may also issue notes in anticipation of such obligations, pursuant to a resolution of its board of trustees or other governing body for the purpose of providing funds to do both of the following:



- (a) Pay claims expenses, whether by way of a reserve or otherwise;
  
- (b) Pay the state university or college's portion of the cost of establishing and maintaining a joint self-insurance pool or to provide for the reserve in a special fund authorized by division (C)(1) of this section.
  
- (2) Sections 9.98 to 9.983 of the Revised Code apply to bonds or notes authorized under this section.
  
- (G)(1) A joint self-insurance pool, in addition to its powers to provide self-insurance against any and all liabilities under this chapter, may also include any one or more of the following forms of property or casualty self-insurance for the purpose of covering any other liabilities or risks of the members of the pool:
  - (a) Public general liability, professional liability, or employee liability;
  
  - (b) Individual or fleet motor vehicle or automobile liability and protection against other liability and loss associated with the ownership, maintenance, and use of motor vehicles;
  
  - (c) Aircraft liability and protection against other liability and loss associated with the ownership, maintenance, and use of aircraft;
  
  - (d) Loss or damage to property and loss of use and occupancy of property by fire, lightning, hail, tempest, flood, earthquake, or snow, explosion, accident, or other risk;
  
  - (e) Marine, inland transportation and navigation, boiler, containers, pipes, engines, flywheels, elevators, and machinery;
  
  - (f) Environmental impairment;
  
  - (g) Loss or damage by any hazard upon any other risk to which state universities or colleges are subject, which is not prohibited by statute or at common law from being the subject of casualty or property insurance.



(2) A joint self-insurance pool is not an insurance company. Its operation does not constitute doing an insurance business and is not subject to the insurance laws of this state.

(H) A public official or employee of a state university or college who is or becomes a member of the governing body of a joint self-insurance pool in which the state university or college participates is not in violation of any of the following as a result of the state university or college entering into the written agreement to participate in the pool or into any contract with the pool:

(1) Division (D) or (E) of section 102.03 of the Revised Code;

(2) Division (C) of section 102.04 of the Revised Code;

(3) Section 2921.42 of the Revised Code.

(I) This section shall not be construed to affect the ability of any state university or college to self-insure under the authority conferred by any other section of the Revised Code.

(J) The establishment or participation in a joint self-insurance pool under this section shall not constitute a waiver of any immunity or defense available to the member state university or college or to any covered entity.

(K)(1) Both of the following shall be determined in the court of claims pursuant to section 2743.02 of the Revised Code:

(a) Any claims or litigation relating to the administration of a joint self-insurance pool created pursuant to this section, including any immunities or defenses;

(b) Any claims relating to the scope of or denial of coverage under that pool or its administration.

(2) The pool administrator described in division (C)(2) of this section and its employees, while in the course of administering a joint self-insurance pool under this section, shall:



(a) Be deemed to be an instrumentality of the state for the purposes of Chapter 2743. of the Revised Code;

(b) Be deemed to be performing a public duty, as defined in section 2743.01 of the Revised Code;  
and

(c) Have the defenses to, and immunities from, civil liability provided in section 2743.02 of the Revised Code.

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*The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.*