



## Ohio Revised Code

### Section 9.833 Self-insurance program for health care benefits.

Effective: October 12, 2016

Legislation: House Bill 483, Senate Bill 3 - 131st General Assembly

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(A) As used in this section:

"Political subdivision" has the meaning defined in sections 2744.01 and 3905.36 of the Revised Code. For purposes of this section, "political subdivision" includes municipal corporations as defined in section 5705.01 of the Revised Code.

"County board" means a county board of developmental disabilities.

(B) Political subdivisions and county boards that provide health care benefits for their officers or employees may do any of the following:

(1) Establish and maintain an individual self-insurance program with public moneys to provide authorized health care benefits, including but not limited to, health care, prescription drugs, dental care, and vision care, in accordance with division (C) of this section;

(2) Establish and maintain a health savings account program whereby employees or officers may establish and maintain health savings accounts in accordance with section 223 of the Internal Revenue Code. Public moneys may be used to pay for or fund federally qualified high deductible health plans that are linked to health savings accounts or to make contributions to health savings accounts. A health savings account program may be a part of a self-insurance program.

(3) After establishing an individual self-insurance program, agree with other political subdivisions or county boards that have established individual self-insurance programs for health care benefits, that their programs will be jointly administered in a manner specified in the agreement;

(4) Pursuant to a written agreement and in accordance with division (C) of this section, join in any combination with other political subdivisions or county boards to establish and maintain a joint self-insurance program to provide health care benefits;



(5) Pursuant to a written agreement, join in any combination with other political subdivisions or county boards to procure or contract for policies, contracts, or plans of insurance to provide health care benefits, which may include a health savings account program for their officers and employees subject to the agreement;

(6) Use in any combination any of the policies, contracts, plans, or programs authorized under this division.

(7) Any agreement made under division (B)(3), (4), (5), or (6) of this section shall be in writing, comply with division (C) of this section, and contain best practices established in consultation with and approved by the department of administrative services. The best practices may be reviewed and amended at the discretion of the political subdivisions and county boards in consultation with the department. Detailed information regarding the best practices shall be made available to any employee upon that employee's request.

(8) Purchase plans containing best practices identified by the department of administrative services under section 9.901 of the Revised Code.

(C) Except as otherwise provided in division (E) of this section, the following apply to individual or joint self-insurance programs established pursuant to this section:

(1) Such funds shall be reserved as are necessary, in the exercise of sound and prudent actuarial judgment, to cover potential cost of health care benefits for the officers and employees of the political subdivision or county board. A financial statement and a report of aggregate amounts so reserved and aggregate disbursements made from such funds, together with 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, shall be prepared and maintained, within ninety days after the last day of the fiscal year of the entity for which the report is provided for that fiscal year, in the office of the program administrator described in division (C)(3) of this section.



The report required by division (C)(1) of this section shall include, but not be limited to, the aggregate of disbursements made for the administration of the program, including claims paid, costs of the legal representation of political subdivisions, county boards, and employees, and fees paid to consultants.

The program administrator described in division (C)(3) 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, and, upon the request of such person, shall make copies of the report available at cost within a reasonable period of time. The program administrator shall further provide the report to the auditor of state under Chapter 117. of the Revised Code. 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) Each political subdivision shall reserve funds necessary for an individual or joint self-insurance program in a special fund that may be established for political subdivisions other than an agency or instrumentality pursuant to an ordinance or resolution of the political subdivision and not subject to section 5705.12 of the Revised Code. An agency or instrumentality shall reserve the funds necessary for an individual or joint self-insurance program in a special fund established pursuant to a resolution duly adopted by the agency's or instrumentality's governing board. A county board shall reserve the funds necessary for an individual or joint self-insurance program in a special fund established pursuant to a resolution duly adopted by the county board. The political subdivision or county board may allocate the costs of insurance or any self-insurance program, or both, among the funds or accounts established under this division on the basis of relative exposure and loss experience.

(3) A contract may be awarded, without the necessity of competitive bidding, to any person, political subdivision, nonprofit corporation organized under Chapter 1702. of the Revised Code, or regional council of governments created under Chapter 167. of the Revised Code for purposes of administration of an individual or joint self-insurance program. No such contract shall be entered into 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 political subdivision, county board, or employee. The proposed contract and statement shall be disclosed and presented at a meeting of the political subdivision or county board not less than one week prior to the meeting at which the political subdivision or county board authorizes the contract.



A contract awarded to a nonprofit corporation or a regional council of governments under this division may provide that all employees of the nonprofit corporation or regional council of governments, the employees of all entities related to the nonprofit corporation or regional council of governments, and the employees of other nonprofit corporations that have fifty or fewer employees and have been organized for the primary purpose of representing the interests of political subdivisions or county boards, may be covered by the individual or joint self-insurance program under the terms and conditions set forth in the contract.

(4) The individual or joint self-insurance program shall include a contract with a certified public accountant and a member of the American academy of actuaries for the preparation of the written evaluations required under division (C)(1) of this section.

(5) A joint self-insurance program may allocate the costs of funding the program among the funds or accounts established under this division to the participating political subdivisions and county boards on the basis of their relative exposure and loss experience.

(6) An individual self-insurance program may allocate the costs of funding the program among the funds or accounts established under this division to the political subdivision or county board that established the program.

(7) Two or more political subdivisions, two or more county boards, or a combination thereof, may also authorize the establishment and maintenance of a joint health care cost containment program, including, but not limited to, the employment of risk managers, health care cost containment specialists, and consultants, for the purpose of preventing and reducing health care costs covered by insurance, individual self-insurance, or joint self-insurance programs.

(8) A political subdivision or county board is not liable under a joint self-insurance program for any amount in excess of amounts payable pursuant to the written agreement for the participation of the political subdivision or county board in the joint self-insurance program. Under a joint self-insurance program agreement, a political subdivision or county board may, to the extent permitted under the written agreement, assume the risks of any other political subdivision or county board. A joint self-insurance program established under this section is deemed a separate legal entity for the public



purpose of enabling the members of the joint self-insurance program 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.

(9) A county board or any political subdivision, other than an agency or instrumentality, may issue general obligation bonds, or special obligation bonds that are not payable from real or personal property taxes, and may also issue notes in anticipation of such bonds, pursuant to an ordinance or resolution of its legislative authority or other governing body or, in the case of a county board, the board itself, for the purpose of providing funds to pay expenses associated with the settlement of claims, whether by way of a reserve or otherwise, and to pay the political subdivision's or county board's portion of the cost of establishing and maintaining an individual or joint self-insurance program or to provide for the reserve in the special fund authorized by division (C)(2) of this section.

In its ordinance or resolution authorizing bonds or notes under this section, a political subdivision or county board may elect to issue such bonds or notes under the procedures set forth in Chapter 133. of the Revised Code. In the event of such an election, notwithstanding Chapter 133. of the Revised Code, the maturity of the bonds may be for any period authorized in the ordinance or resolution not exceeding twenty years, which period shall be the maximum maturity of the bonds for purposes of section 133.22 of the Revised Code.

Bonds and notes issued under this section shall not be considered in calculating the net indebtedness of the political subdivision under sections 133.04, 133.05, 133.06, and 133.07 of the Revised Code. Sections 9.98 to 9.983 of the Revised Code are hereby made applicable to bonds or notes authorized under this section.

(10) A joint self-insurance program 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.

(11) A joint self-insurance program shall pay the run-off expenses of a participating political subdivision or county board that terminates its participation in the program if the political subdivision or county board has accumulated funds in the reserves for incurred but not reported claims. The run-off payment, at minimum, shall be limited to an actuarially determined cap or sixty



days, whichever is reached first. This provision shall not apply during the term of a specific, separate agreement with a political subdivision or county board to maintain enrollment for a specified period, not to exceed three years.

(D) A political subdivision or county board may procure group life insurance for its employees in conjunction with an individual or joint self-insurance program authorized by this section, provided that the policy of group life insurance is not self-insured.

(E) This section does not apply to individual self-insurance programs created solely by municipal corporations as defined in section 5705.01 of the Revised Code.

(F) A public official or employee of a political subdivision or county board who is or becomes a member of the governing body of the program administrator of a joint self-insurance program in which the political subdivision or county board participates is not in violation of division (D) or (E) of section 102.03, division (C) of section 102.04, or section 2921.42 of the Revised Code as a result of either of the following:

(1) The political subdivision's or county board's entering under this section into the written agreement to participate in the joint self-insurance program;

(2) The political subdivision's or county board's entering under this section into any other contract with the joint self-insurance program.

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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.*