

LOCAL GOVERNMENT CODE

TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE C. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE
THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 172. TEXAS POLITICAL SUBDIVISIONS UNIFORM GROUP BENEFITS
PROGRAM

Sec. 172.001. SHORT TITLE. This chapter may be cited as the Texas Political Subdivision Employees Uniform Group Benefits Act. Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Sec. 172.002. PURPOSE. The purpose of this chapter is to:

(1) provide uniformity in benefits including accident, health, dental, and long-term disability coverage to employees of political subdivisions;

(2) enable the political subdivisions to attract and retain competent and able employees by providing them with accident and health benefits coverages at least equal to those commonly provided in private industry;

(3) foster, promote, and encourage employment by and service to political subdivisions as a career profession for persons of high standards of competence and ability;

(4) recognize and protect the political subdivisions' investment in each permanent employee by promoting and preserving economic security and good health among those employees;

(5) foster and develop high standards of employer-employee relationships between each political subdivision and its employees;

(6) recognize the service to political subdivisions by elected officials and employees of affiliated service contractors by extending to them the same accident and health benefits coverages as are provided for political subdivision employees; and

(7) recognize the long and faithful service and dedication of employees of political subdivisions and to encourage them to remain in service of their respective political subdivisions until eligible for retirement by providing health benefits to those employees.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2001, 77th Leg., ch. 491, Sec. 1, eff. Sept. 1, 2001.

Sec. 172.003. DEFINITIONS. In this chapter:

(1) "Affiliated service contractor" means an organization qualified for exemption under Section 501(c), Internal Revenue Code (26 U.S.C. Section 501(c)), as amended, that provides governmental or quasi-governmental services on behalf of a political subdivision and derives more than 25 percent of its gross revenues from grants or funding from the political subdivision.

(2) "Employee" means a person who works at least 20 hours a week for a political subdivision.

(3) "Political subdivision" means a county, municipality, special district, school district, junior college district, housing authority, or other political subdivision of this state or any other state.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2001, 77th Leg., ch. 491, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. [2120](#)), Sec. 28, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1363 (S.B. [654](#)), Sec. 5, eff. June 19, 2009.

Sec. 172.004. BENEFITS CONTRACT. (a) A political subdivision or a group of political subdivisions pursuant to The Interlocal Cooperation Act (Chapter [791](#), Government Code) directly or through a risk pool may provide health and accident coverage for political subdivision officials, employees, and retirees or any class of officials, employees, or retirees, and employees of affiliated service contractors.

(b) The types of coverage that may be provided include group health and accident, group dental, accidental death and dismemberment, and hospital, surgical, and medical expense.

(c) A political subdivision also may include under the

coverage dependents of the officers, employees, and retirees and of employees of affiliated service contractors.

(d) A pool's board of trustees may provide coverage for the trustees and the pool's staff, including persons with whom the pool has contracted to perform staff functions, on approval of the members of the pool.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 491, Sec. 3, eff. Sept. 1, 2001.

Sec. 172.005. RISK POOL. (a) A political subdivision may establish a risk pool or may enter into an interlocal agreement under The Interlocal Cooperation Act (Chapter 791, Government Code) with other political subdivisions to establish a risk pool to provide health and accident coverage for officials, employees, retirees, employees of affiliated service contractors, and their dependents.

(b) Contributions paid by a political subdivision's officials, employees, and retirees and employees of affiliated service contractors for coverage shall be deposited to the credit of the risk pool's fund and used as provided by rules of the risk pool.

(c) A pool by contract may purchase insurance coverage for persons who are covered by the pool from an insurance company authorized to do business in this state.

(d) A pool or its agents may not represent to persons who apply for coverage or who are covered by the pool that the coverage being provided is insurance unless the coverage is by contract purchased from an insurance company authorized to do business in this state.

(e) A risk pool organized under this section is a legal entity that may contract with an insurer licensed to do business in Texas to assume any excess of loss of a benefit contract authorized under Section 172.004. Notwithstanding any provision of the Insurance Code or any other law governing insurance in this state, an insurer authorized to do business in Texas may assume the excess of loss of the benefit contract under Section 172.004.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 611, Sec. 1, eff. Aug. 26,
1991; Acts 2001, 77th Leg., ch. 491, Sec. 4, eff. Sept. 1, 2001.

Sec. 172.006. SUPERVISION AND ADMINISTRATION OF POOL. (a)
A political subdivision or a group of political subdivisions that
create a risk pool shall select trustees to supervise the operation
of the pool.

(b) A pool may be administered by a staff employed by the
pool, an entity created by the political subdivision or group of
political subdivisions participating in the pool, a staff or entity
that administers another pool established under this chapter, or a
third party administrator.

(c) Before entering into a contract with a person to be a
third party administrator of the pool, the trustees shall require
that person to submit information necessary for the trustees to
evaluate the background, experience, and financial qualifications
and solvency of that person. The information submitted by a
prospective administrator other than an insurance company must
disclose:

(1) any ownership interest that the prospective
administrator has in an insurance company, group hospital service
corporation, health maintenance organization, or other provider of
health care indemnity; and

(2) any commission or other benefit that the
prospective administrator will receive for purchasing services or
coverage for the pool.

(d) An attorney employed by a third party administrator,
provider of excess loss coverage, or reinsurer may not be
simultaneously employed by the pool unless, before the attorney is
employed by the pool, the third party administrator, provider of
excess loss coverage, reinsurer, or attorney discloses to the
pool's board of trustees that the attorney is employed by the
administrator, provider, or reinsurer.

(e) If the state enacts a law providing for the licensing or
registration of third party administrators, a risk pool in
contracting for administrative services may only contract for

services of a third party administrator licensed or registered under that law. This subsection does not apply to a nonprofit corporation that is acting solely on behalf of the risk pool or other pools or administrative agencies established under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes).

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1999, 76th Leg., ch. 988, Sec. 1, eff. Sept. 1, 1999.

Sec. 172.007. TRUSTEE TRAINING. (a) Trustees who act as fiduciaries for a risk pool must have at least 16 hours of combined professional instruction with four hours of instruction in each of the following areas:

(1) law governing the establishment and operation of risk pools by political subdivisions;

(2) principles of self-insurance and risk pools, including actuarial and underwriting principles and investment principles;

(3) principles relating to reading and understanding financial statements; and

(4) the general fiduciary duties of trustees.

(b) Not later than the 180th day after the date of selection as trustee, or after the effective date of this chapter, whichever is the later date, a trustee must complete the training required by Subsection (a).

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Sec. 172.008. EXCESS LOSS COVERAGE AND REINSURANCE. (a) A risk pool may purchase excess loss coverage or reinsurance to insure a pool against financial losses that the pool determines might place the solvency of the pool in financial jeopardy.

(b) If a risk pool does not purchase excess loss coverage or reinsurance, the administrator shall give written notice to each person who applies for coverage from the pool that the pool does not maintain excess loss coverage or reinsurance. The administrator shall provide the notice before coverage is issued to an applicant

and shall give the applicant the opportunity to decline the coverage.

(c) If a risk pool cancels or does not renew excess loss coverage or reinsurance, the administrator shall give notice to each person covered by the pool that the coverage has been canceled or has not been renewed and shall give each an opportunity to cancel his coverage. The administrator must give the notice and opportunity to cancel coverage not later than the 30th day after the date on which the pool cancels or does not renew the excess loss coverage or reinsurance.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Sec. 172.009. INVESTMENTS. (a) The trustees of a risk pool shall invest the pool's money in accordance with Subchapter A, Chapter 2256, Government Code to the extent that law can be made applicable.

(b) In addition to investments authorized under Subchapter A, Chapter 2256, Government Code, the trustees of a pool may invest the pool's money in any investment authorized by the Texas Trust Code (Subtitle B, Title 9, Property Code).

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(11), eff. Sept. 1, 1995.

Sec. 172.010. AUDITS. (a) The trustees of the pool shall have the fiscal accounts and records of the risk pool audited annually by an independent auditor.

(b) The person who performs the audit must be a certified public accountant or public accountant licensed by the Texas State Board of Public Accountancy.

(c) The independent audit shall cover a pool's fiscal year.

(d) The trustees of the pool shall file annually with the State Board of Insurance a copy of the audit report. The State Board of Insurance shall maintain the copies of the audit reports at a convenient location and shall make the copies of the audit reports available for public inspection during regular business hours. A person may request the State Board of Insurance to provide copies of

any item included in an audit report on payment of the cost of providing the copies. The State Board of Insurance may adopt rules governing the time and manner for filing audit reports under this subsection and the procedures for filing, inspecting, and obtaining copies of audit reports.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 599, Sec. 15, eff. Sept. 1, 1991.

Sec. 172.011. INSOLVENCY. (a) The trustees of a risk pool shall declare the pool insolvent if the trustees determine that the pool is unable to pay valid claims within 60 days after the date the claims are verified.

(b) If a pool is declared insolvent by the trustees, the pool shall cease operation on the day of the declaration, and the trustees shall provide for the disposition of the pool's assets, debts, obligations, losses, and other liabilities.

(c) A person who has coverage under a risk pool may institute proceedings to have the pool declared insolvent by petitioning a district court in Travis County to declare the pool insolvent. If the district court, after notice and hearing, determines that the pool is insolvent, the court shall appoint a receiver to take charge of and dispose of the pool's assets, debts, obligations, losses, and other liabilities. Except as provided by this chapter, a receivership under this section is governed by Chapter 64, Civil Practice and Remedies Code, to the extent that chapter can be made applicable.

(d) After a receiver takes charge of the assets and determines outstanding debts, obligations, losses, and other liabilities, the receiver shall give notice of his determination to any person, including a political subdivision that is a participant in the pool.

(e) If the receiver determines that money is owed to the pool by a political subdivision that is a participant in the pool, the political subdivision may protest the determination by filing with the court a protest statement not later than the 15th day after the date the notice of the receiver's determination is mailed.

(f) If a court in which a protest statement is filed determines after a hearing that an amount is owed by the political subdivision filing the protest statement, the political subdivision shall pay that amount to the receiver not later than the 30th day after the date on which the court's determination becomes final. A determination by a court on a protest statement is interlocutory.

(g) If a protest statement is not filed with the court, the political subdivision shall pay to the receiver the amount determined to be owed not later than the 30th day after the date on which the receiver mails the notice under Subsection (d).

(h) The court that appoints a receiver may direct that a reasonable fee be paid to the receiver as compensation for performance of responsibilities and duties and may assess each political subdivision that is a participant in the pool under the receiver's control an amount necessary to compensate the receiver. Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Sec. 172.012. LIMITATION OF RISK POOLS. (a) Except as provided by Subsection (b), a county may not provide health and accident coverage through a risk pool under this chapter, except:

(1) as authorized by Subchapter A, Chapter 157; or

(2) through an interlocal contract entered under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes) with other political subdivisions of this state if the aggregate annual contributions to the pool will exceed \$1 million based on an actuarial estimate by an actuary who is a member of the American Academy of Actuaries.

(b) A county with a population of fewer than 500,000 may create and provide coverage through a pool if the aggregate annual claims, contributions, or both claims and contributions to the pool will exceed \$300,000 based on an actuarial estimate by an actuary who is a member of the American Academy of Actuaries.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 649, Sec. 1, eff. Aug. 26, 1991.

Sec. 172.013. PAYMENT OF CONTRIBUTIONS AND PREMIUMS. (a) A political subdivision may pay all or part of the contributions for coverage under this chapter from local funds, including federal grant or contract pass-through funds, that are not dedicated by law to some other purpose.

(b) A political subdivision also may pay all or part of the contributions for coverage for officers, employees, retirees, and dependents, but may not pay any part of the contributions for coverage for employees of affiliated service contractors or their dependents.

(c) On written approval of an officer or employee, a political subdivision may deduct from the officer's or employee's compensation an amount necessary to pay that person's and his dependents' contributions. A retiree may authorize in writing the person who pays his retirement benefits to deduct from those benefits an amount sufficient to pay the retiree's and his dependents' contributions.

(d) State funds, except federal grant or contract funds passed through the state to its political subdivisions, may not be used to purchase coverage or to pay contributions under this chapter.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 491, Sec. 5, eff. Sept. 1, 2001.

Sec. 172.014. APPLICATION OF CERTAIN LAWS. A risk pool created under this chapter is not insurance or an insurer under the Insurance Code and other laws of this state, and the State Board of Insurance does not have jurisdiction over a pool created under this chapter.

Added by Acts 1989, 71st Leg., ch. 1067, Sec. 1, eff. Sept. 1, 1989.

Sec. 172.016. STATUS OF AFFILIATED SERVICE CONTRACTORS. Inclusion of the employees of affiliated service contractors in the uniform group benefits program authorized by this chapter does not, for any purpose:

(1) make an affiliated service contractor a political

subdivision or a division of a political subdivision; or

(2) make an employee of an affiliated service contractor an employee of a political subdivision or a division of a political subdivision.

Added by Acts 2001, 77th Leg., ch. 491, Sec. 6, eff. Sept. 1, 2001.