

[Second Reprint]

SENATE, No. 2663

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED OCTOBER 7, 2016

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Senator Cardinale

SYNOPSIS

Allows certain joint insurance funds to invest in bonds of State and federal agencies and to form joint cash management and investment programs.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 5, 2016, with amendments.



(Sponsorship Updated As Of: 11/15/2016)

1 AN ACT concerning certain joint insurance funds and amending and
2 supplementing P.L.1983, c.372 and P.L. 1983, c.108.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1983, c.372 (C.40A:10-38) is amended to
8 read as follows:

9 3. a. The commissioners of a joint insurance fund shall have
10 the powers and authority granted to commissioners of individual
11 local insurance funds under the provisions of subsections a., b., c.,
12 and e. of N.J.S.40A:10-10.

13 b. The commissioners may invest and reinvest the funds,
14 including workers' compensation funds, as authorized under the
15 provisions of subsection b. of N.J.S.40A:10-10. The commissioners
16 may, subject to the cash management plan of the joint insurance
17 fund adopted pursuant to N.J.S.40A:5-14, delegate any of the
18 functions, powers and duties relating to the investment and
19 reinvestment of these funds, including the purchase, sale or
20 exchange of any investments, securities or funds to an investment or
21 asset manager. Any transfer of investment power and duties made
22 pursuant to this subsection shall be detailed in a written contract for
23 services between the joint insurance fund and an investment or asset
24 manager. The contract shall be filed with the Commissioner of
25 Banking and Insurance and the Commissioner of Community
26 Affairs. Compensation under such an arrangement shall not be
27 based upon commissions related to the purchase, sale or exchange
28 of any investments, securities or funds. In addition to the types of
29 securities in which the joint insurance fund may invest pursuant to
30 section 8 of P.L.1977, c.396 (C.40A:5-15.1), a joint insurance fund
31 may invest ²[in ¹[debt]¹ obligations ¹as defined in N.J.S.40A:2-2¹
32 of any governmental entity established under the laws of the State
33 of New Jersey and federal agencies or government corporations]
34 moneys held in the fund in bonds, notes, and other obligations
35 issued by an agency or corporation of the federal government or a
36 governmental entity established under the laws of this State,
37 provided that the agency, corporation, or governmental entity
38 responsible for the issuance of the bonds, notes, or other obligations
39 is not in default as to the payment of principal or interest upon any
40 of its outstanding obligations, and provided further that the bonds,
41 notes, or other obligations are purchased at fair market value,
42 guaranteed as to interest and principal, and have a credit rating of
43 A3 or higher by Moody's Investor Services, Inc., A- or higher by
44 Standard & Poor's Corporation, and A- or higher by Fitch Ratings,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted November 14, 2016.

²Senate SBA committee amendments adopted December 5, 2016.

1 except that two of the three ratings is sufficient and one of the three
2 ratings is sufficient if only one rating is available. If a rating for the
3 bonds, notes, or other obligations has not been obtained from one of
4 the credit rating agencies, the bonds, notes, or other obligations may
5 be purchased if the agency, corporation, or governmental entity
6 responsible for the issuance meets the minimum rating criteria
7 specified by the previous sentence².

8 c. The commissioners may transfer moneys held in the fund to
9 the Director of the Division of Investment in the Department of the
10 Treasury for investment on behalf of the fund, pursuant to the
11 written directions of the commissioners, signed by an authorized
12 officer of the joint insurance fund, or any investment or asset
13 manager designated by them. The commissioners shall provide a
14 written notice to the director detailing the extent of the authority
15 delegated to the investment or asset manager so designated to act on
16 behalf of the joint insurance fund. Moneys transferred to the
17 director for investment shall be invested subject to section 8 of
18 P.L.1977, c.396 (C.40A:5-15.1), and in accordance with the
19 standards governing the investment of other funds which are
20 managed under the rules and regulations of the State Investment
21 Council. In addition to the types of securities in which the joint
22 insurance fund may invest pursuant to section 8 of P.L.1977, c.396
23 (C.40A:5-15.1), a joint insurance fund may invest in debt
24 obligations of federal agencies or government corporations with
25 maturities not to exceed 10 years from the date of purchase,
26 excluding mortgage backed or derivative obligations, provided that
27 the investments are purchased through the Division of Investment
28 and are invested consistent with the rules and regulations of the
29 State Investment Council.

30 d. Moneys transferred to the director for investment may not
31 thereafter be withdrawn except: (1) pursuant to the written
32 directions of the commissioners signed by an authorized officer of
33 the joint insurance fund, or any investment or asset manager
34 designated by them; (2) upon withdrawal or expulsion of a member
35 local unit from the fund; (3) termination of the fund; or (4) in
36 specific amounts in payment of specific claims, administrative
37 expenses or member dividends upon affidavit of the director or
38 other chief executive officer of the joint insurance fund.

39 e. The commissioners or the executive board, as the case may
40 be, of any joint insurance fund established pursuant to the
41 provisions of this act shall be subject to and operate in compliance
42 with the provisions of the "Local Fiscal Affairs Law" (N.J.S.40A:5-
43 1 et seq.), the "Local Public Contracts Law," P.L.1971, c.198
44 (C.40A:11-1 et seq.) and such other rules and regulations as govern
45 the custody, investment and expenditure of public funds by local
46 units.

47 (cf: P.L.1995, c.374, s.1)

1 2. (New section) Notwithstanding the provisions of any other
2 law to the contrary, and in addition to the powers otherwise
3 conferred by law, the commissioners of a joint insurance fund
4 established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), and
5 the trustees of a joint insurance fund established pursuant to
6 P.L.1983, c.108 (C.18A:18B-1 et seq.) may amend the plan of risk
7 management of their respective funds to participate in a joint cash
8 management and investment program with other joint insurance
9 funds similarly established pursuant to P.L.1983, c.372 (C.40A:10-
10 36 et seq.), and P.L.1983, c.108 (C.18A:18B-1 et seq.). The joint
11 insurance funds participating in this program shall jointly file a cash
12 management plan for prior approval by the Commissioner of
13 Banking and Insurance and the Commissioner of Community
14 Affairs and shall comply with all provisions of P.L.1983, c.372
15 (C.40A:10-36 et seq.) and P.L.1983, c.108 (C.18A:18B-1 et seq.),
16 as appropriate.

17

18 3. Section 4 of P.L.1983, c.108 (C.18A:18B-4) is amended to
19 read as follows:

20 4. Bylaws of the group; trustees; powers.

21 a. The bylaws of any school board insurance group shall:

22 (1) Set forth a statement of purposes of the group;

23 (2) Set forth provisions for organization of the group, including
24 governance by a board of trustees;

25 (3) Provide for the delivery of a risk management program in
26 conjunction with any joint self-insurance fund or funds which the
27 board of trustees shall establish. The risk management program
28 shall include, but not be limited to:

29 (a) the perils of liabilities to be insured against;

30 (b) limits of coverage, whether self-insurance, direct insurance
31 purchased from a commercial carrier or reinsurance;

32 (c) the amount of risk to be retained by the fund;

33 (d) the amount of reserves to be established;

34 (e) the proposed method of assessing contributions to be paid by
35 each member of the fund;

36 (f) procedures governing loss adjustment and legal fees;

37 (g) coverage to be purchased from a commercial insurer, if any;

38 (h) reinsurance to be purchased, if any, and the amount of
39 premium therefor; and

40 (i) such other procedures and information as the commissioner
41 may require by rule or regulation;

42 (4) Set forth procedures to enforce the collection of any
43 contributions or payments in default;

44 (5) Set forth membership standards as required in section 3 of
45 P.L.1983, c.108 (C.18A:18B-3);

46 (6) Require that, for each joint self-insurance fund, a contract or
47 contracts of specific and aggregate excess insurance or reinsurance
48 is maintained;

1 (7) Set forth procedures for:

2 (a) Withdrawal from the group and a fund by a member;

3 (b) Termination of the group or fund and disposition of assets;
4 and

5 (c) Determining the obligations, if any, of a member in the
6 event that the group is unable to pay indemnification obligations
7 and expenses payable from a fund administered by it;

8 (8) Require an annual certified audit to be prepared and filed
9 with the commissioner;

10 (9) Require that any joint self-insurance fund or funds be
11 developed and operated in accordance with accepted and sound
12 actuarial practices;

13 (10) Provide that any expenditure of moneys in a fund be in
14 furtherance of the purpose of the fund;

15 (11) Set forth other provisions as desired for operation and
16 governance of the group;

17 (12) Provide for expulsion of a member; and

18 (13) Comply with any requirement established by the
19 commissioner by rule or regulation.

20 b. The bylaws of a group shall provide for governance of the
21 group by a board of trustees selected in accordance with the
22 provisions of the bylaws. The bylaws shall provide for trustee
23 powers and duties and shall include, but not be limited to, the
24 following powers of the board of trustees:

25 (1) To determine and establish contributions and rates, loss
26 reserves, surplus, limits of coverage, limits of excess or reinsurance,
27 coverage documents, dividends and other financial and operating
28 policies of the group or fund;

29 (2) To invest moneys held in trust under any fund in investments
30 which are approved for investment by regulation of the State
31 Investment Council for surplus moneys of the State or, at the
32 discretion of the board, to transfer moneys held in trust under any
33 fund to the Director of the Division of Investment in the
34 Department of the Treasury for investment on behalf of the board in
35 accordance with the standards governing the investment of other
36 funds which are managed under the rules and regulations of the
37 State Investment Council. However, any moneys transferred to the
38 director for investment may not thereafter be withdrawn except
39 upon withdrawal of a member from the group or a fund or
40 termination of the group or a fund or in specific amounts in
41 payment of specific claims, administrative expenses or member
42 dividends upon affidavit of the director or other chief executive
43 officer of the group. In addition to the types of securities in which
44 the joint insurance fund may otherwise invest, a joint insurance
45 fund may invest ²[in ¹['debt']] obligations ¹as defined in
46 N.J.S.40A:2-2¹ of any governmental entity established under the
47 laws of the State of New Jersey and federal agencies or government
48 corporations] moneys held in trust under any fund in bonds, notes,

1 and other obligations issued by an agency or corporation of the
2 federal government or a governmental entity established under the
3 laws of this State, provided that the agency, corporation, or
4 governmental entity responsible for the issuance of the bonds,
5 notes, or other obligations is not in default as to the payment of
6 principal or interest upon any of its outstanding obligations, and
7 provided further that the bonds, notes, or other obligations are
8 purchased at fair market value, guaranteed as to interest and
9 principal, and have a credit rating of A3 or higher by Moody's
10 Investor Services, Inc., A- or higher by Standard & Poor's
11 Corporation, and A- or higher by Fitch Ratings, except that two of
12 the three ratings is sufficient and one of the three ratings is
13 sufficient if only one rating is available. If a rating for the bonds,
14 notes, or other obligations has not been obtained from one of the
15 credit rating agencies, the bonds, notes, or other obligations may be
16 purchased if the agency, corporation, or governmental entity
17 responsible for the issuance meets the minimum rating criteria
18 specified by the previous sentence²;

19 (3) To purchase, acquire, hold, lease, sell and convey real and
20 personal property, all of which property shall be exempt from
21 taxation under chapter 4 of Title 54, Taxation, of the Revised
22 Statutes;

23 (4) To collect and disburse all money due to or payable by the
24 group, or authorize such collection and disbursement;

25 (5) To enter into contracts with other persons or with public
26 bodies of this State for any professional, administrative or other
27 services as may be necessary to carry out the purposes of the group
28 or any fund;

29 (6) To purchase and serve as the master policyholders if desired,
30 for any insurance, including excess or reinsurance;

31 (7) To prepare, or cause to be prepared, a risk management
32 program for the joint insurance group;

33 (8) As the need arises, from time to time, to amend the bylaws
34 or risk management program of the fund; except that no such
35 amendment shall take effect until approved in the following
36 manner:

37 (a) The trustees shall file with the commissioner, for his
38 approval: a copy of any amendment to the bylaws of the fund, upon
39 approval by resolution of three-fourths of the member school boards
40 or in such other manner as established by the fund and approved by
41 the commissioner; or any amendment to the risk management
42 program, upon adoption by the trustees.

43 (b) Within 60 days of receipt, the commissioner shall either
44 approve or disapprove any amendment to the bylaws or risk
45 management program. If the commissioner fails to either approve
46 or disapprove the amendment within that 60 day period, the
47 amendment shall be deemed approved;

1 (c) If any amendment is disapproved, the commissioner shall set
2 forth, in writing, the reasons for disapproval. Upon the receipt of
3 the notice of disapproval, the trustee of the affected joint insurance
4 fund may request a public hearing. The public hearing shall be
5 convened by the commissioner in a timely manner;

6 (d) Within 90 days after the effective date of any amendment to
7 the bylaws, a member school board which did not approve the
8 amendment may withdraw from the fund, except that it shall remain
9 liable for its share of any claim or expense incurred by the fund
10 during its period of membership;

11 (9) To do all other things necessary and proper to carry out the
12 purposes for which the group is established.

13 (cf: P.L.1995, c.74, s.2)

14

15 4. (New section) Notwithstanding the provisions of any other
16 law to the contrary, and in addition to the powers otherwise
17 conferred by law, the trustees of a joint insurance fund established
18 pursuant to P.L.1983, c.108 (C.18A:18B-1 et seq.) and the
19 commissioners of a joint insurance fund established pursuant to
20 P.L.1983, c.372 (C.40A:10-36 et seq.), may amend the plan of risk
21 management of their respective funds to participate in a joint cash
22 management and investment program with other joint insurance
23 funds similarly established pursuant to P.L.1983, c.108
24 (C.18A:18B-1 et seq.) and P.L.1983, c.372 (C.40A:10-36 et seq.).
25 The joint insurance funds participating in this program shall jointly
26 file a cash management plan for prior approval by the
27 Commissioner of Banking and Insurance and the Commissioner of
28 Community Affairs and shall comply with all provisions of
29 P.L.1983, c.108 (C.18A:18B-1 et seq.) and P.L.1983, c.372
30 (C.40A:10-36 et seq.), as appropriate.

31

32 5. This act shall take effect immediately.