

1 HOUSE BILL NO. 54

2 INTRODUCED BY T. NELSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT INSURANCE POOLS ESTABLISHED BY
5 POLITICAL SUBDIVISIONS ARE NOT SUBJECT TO REGULATION BY THE COMMISSIONER OF INSURANCE
6 WITH RESPECT TO THE PURCHASE OF EXCESS OR REINSURANCE COVERAGE; AMENDING SECTION
7 2-9-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 2-9-211, MCA, is amended to read:

12 **"2-9-211. Political subdivision insurance.** (1) All political subdivisions of the state may procure
13 insurance separately or jointly with other subdivisions and may elect to use a deductible or self-insurance
14 plan, wholly or in part. Political subdivisions that elect to procure insurance under this section are not
15 subject to the regulatory authority of the commissioner of insurance under Title 33 with respect to the
16 purchase of excess or reinsurance coverage.

17 (2) A political subdivision that elects to establish a deductible plan may establish a deductible
18 reserve separately or jointly with other subdivisions.

19 (3) A political subdivision that elects to establish a self-insurance plan may accumulate a
20 self-insurance reserve fund, separately or jointly with other subdivisions, sufficient to provide self-insurance
21 for all liability coverages that, in its discretion, the political subdivision considers should be self-insured.
22 Payments into the reserve fund must be made from local legislative appropriations for that purpose or from
23 the proceeds of bonds or notes authorized by subsection (5). Proceeds of the fund may be used only to
24 pay claims under parts 1 through 3 of this chapter and for actual and necessary expenses required for the
25 efficient administration of the fund.

26 (4) Money in reserve funds established under this section not needed to meet expected
27 expenditures ~~shall~~ must be invested, and all proceeds of the investment must be credited to the fund.

28 (5) A political subdivision may issue and sell its bonds or notes for purposes of funding a
29 self-insurance or deductible reserve fund and costs incident ~~thereto~~ to the reserve fund in an amount not
30 exceeding 3% of the taxable value of the political subdivision as of the date of issuance. The bonds or

1 notes must be authorized by resolution of the governing body, are payable from the taxes authorized by
2 2-9-212, may be sold at public or private sale, do not constitute debt within the meaning of any statutory
3 debt limitation, and may contain ~~such~~ other terms and provisions as the governing body determines. Two
4 or more political subdivisions may agree pursuant to an interlocal agreement to exercise their respective
5 borrowing powers ~~hereunder~~ under this section jointly and may authorize a joint board created pursuant
6 to ~~such~~ the agreement to exercise ~~such~~ powers on their behalf."

7

8 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

9

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0054, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying that insurance pools established by political subdivisions are not subject to regulation by the commissioner of insurance with respect to the purchase of excess or reinsurance coverage.

ASSUMPTIONS:

1. The number of political subdivisions that purchase insurance from surplus lines or unauthorized foreign insurers will triple above the current number. The associated estimated reduction in premium tax revenue is based upon tripling the premium tax collected using information from current insurance issued through exempt insurers.
2. Any political subdivision purchasing insurance through surplus lines will be exempt from premium tax payments.
3. Any political subdivision purchasing insurance through an unauthorized foreign insurance company will be exempt from premium tax payments.
4. The insurance currently purchased from surplus lines or unauthorized foreign insurers by political subdivisions is comprehensive general liability insurance.
5. There will be no fiscal impact on the expenditures of the State Auditor's Office or other state agencies.
6. The premium tax collected by the State Auditor's Office is deposited in the general fund.

FISCAL IMPACT:

Revenues:

| | <u>FY96</u> | <u>FY97</u> |
|-------------------------------|-------------------|-------------------|
| | <u>Difference</u> | <u>Difference</u> |
| Premium Tax-General Fund (01) | (129,000) | (129,000) |

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Insurance expenditures by local political subdivisions will decrease by at least \$129,000 per year. The \$129,000 is the estimated amount of reduction in premium taxes paid by local political subdivisions.

By purchasing insurance through a non-authorized carrier, the local government loses the protection of the guarantee association and subjects itself to financial liability in the event of an insolvency.

Dave Lewis 1-4-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Tom Nelson
TOM NELSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0054, as introduced

HB 54

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0054, second reading

DESCRIPTION OF PROPOSED LEGISLATION:

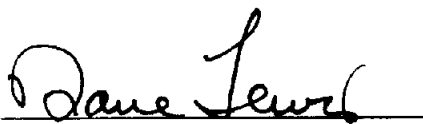
Clarifying that insurance pools established separately or jointly by political subdivisions may obtain excess insurance without proceeding under the provisions of section 33-2-320(2) through (4) of the surplus lines insurance law.

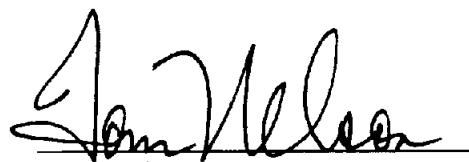
ASSUMPTIONS:

1. The bill, as amended, does not exempt political subdivisions from premium taxes.
2. The bill, as amended, has no fiscal impact on state agency expenditures or revenue.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

By purchasing insurance through a non-authorized carrier, a local government loses the protection of the guarantee association and subjects itself to financial liability in the event of an insolvency.

 1-14-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/16/95
TOM NELSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0054, second reading

HB 54 # 2

APPROVED BY COMM.
ON LOCAL GOVERNMENT

HOUSE BILL NO. 54

INTRODUCED BY T. NELSON

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT INSURANCE POOLS ESTABLISHED SEPARATELY OR JOINTLY BY POLITICAL SUBDIVISIONS ~~ARE NOT SUBJECT TO REGULATION BY THE COMMISSIONER OF INSURANCE WITH RESPECT TO THE PURCHASE OF EXCESS OR REINSURANCE COVERAGE~~ MAY OBTAIN EXCESS INSURANCE WITHOUT PROCEEDING UNDER THE PROVISIONS OF SECTION 33-2-320(2) THROUGH (4) OF THE SURPLUS LINES INSURANCE LAW; AMENDING SECTION 2-9-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-9-211, MCA, is amended to read:

"2-9-211. Political subdivision insurance. (1) All political subdivisions of the state may procure insurance separately or jointly with other subdivisions and may elect to use a deductible or self-insurance plan, wholly or in part. Political subdivisions that elect to procure insurance SEPERATELY OR JOINTLY under this section are not subject to the regulatory authority of the commissioner of insurance under Title 33 with respect to the purchase of excess or reinsurance coverage MAY OBTAIN EXCESS COVERAGE FROM A SURPLUS LINES INSURER WITHOUT PROCEEDING UNDER THE PROVISIONS OF 33-2-302(2) THROUGH (4).

(2) A political subdivision that elects to establish a deductible plan may establish a deductible reserve separately or jointly with other subdivisions.

(3) A political subdivision that elects to establish a self-insurance plan may accumulate a self-insurance reserve fund, separately or jointly with other subdivisions, sufficient to provide self-insurance for all liability coverages that, in its discretion, the political subdivision considers should be self-insured. Payments into the reserve fund must be made from local legislative appropriations for that purpose or from the proceeds of bonds or notes authorized by subsection (5). Proceeds of the fund may be used only to pay claims under parts 1 through 3 of this chapter and for actual and necessary expenses required for the efficient administration of the fund.

(4) Money in reserve funds established under this section not needed to meet expected

1 expenditures ~~shall~~ must be invested, and all proceeds of the investment must be credited to the fund.

2 (5) A political subdivision may issue and sell its bonds or notes for purposes of funding a
3 self-insurance or deductible reserve fund and costs incident ~~thereto~~ to the reserve fund in an amount not
4 exceeding 3% of the taxable value of the political subdivision as of the date of issuance. The bonds or
5 notes must be authorized by resolution of the governing body, are payable from the taxes authorized by
6 2-9-212, may be sold at public or private sale, do not constitute debt within the meaning of any statutory
7 debt limitation, and may contain ~~such~~ other terms and provisions as the governing body determines. Two
8 or more political subdivisions may agree pursuant to an interlocal agreement to exercise their respective
9 borrowing powers ~~hereunder~~ under this section jointly and may authorize a joint board created pursuant
10 to ~~such~~ the agreement to exercise ~~such~~ powers on their behalf."

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12 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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(2) A political subdivision that elects to establish a deductible plan may establish a deductible reserve separately or jointly with other subdivisions.

(3) A political subdivision that elects to establish a self-insurance plan may accumulate a self-insurance reserve fund, separately or jointly with other subdivisions, sufficient to provide self-insurance for all liability coverages that, in its discretion, the political subdivision considers should be self-insured. Payments into the reserve fund must be made from local legislative appropriations for that purpose or from the proceeds of bonds or notes authorized by subsection (5). Proceeds of the fund may be used only to pay claims under parts 1 through 3 of this chapter and for actual and necessary expenses required for the efficient administration of the fund.

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9 borrowing powers ~~hereunder~~ under this section jointly and may authorize a joint board created pursuant
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-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 27, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 54 (third reading copy -- blue), respectfully report that HB 54 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Page 1, line 16.

Strike: "SEPARATELY OR"

Following: "JOINTLY"


Insert: "(pooled fund)"

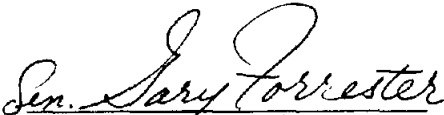
2. Page 1, line 20.

Following: "(4)."

Insert: "Political subdivisions that are not in a pooled fund may obtain excess coverage from a surplus lines insurer without proceeding under the provisions of 33-2-302(2) through (4) only if the insurer carries an A rating or better by a nationally recognized rating company or is a Lloyds of London underwriter."

-END-


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

HB 54

SENATE

231248SC.SRF

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 6 ~~COMMISSIONER OF INSURANCE WITH RESPECT TO THE PURCHASE OF EXCESS OR REINSURANCE~~
 7 ~~COVERAGE~~ MAY OBTAIN EXCESS INSURANCE WITHOUT PROCEEDING UNDER THE PROVISIONS OF
 8 SECTION 33-2-302(2) THROUGH (4) OF THE SURPLUS LINES INSURANCE LAW; AMENDING SECTION
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 16 plan, wholly or in part. Political subdivisions that elect to procure insurance ~~SEPARATELY OR JOINTLY~~
 17 (POOLED FUND) under this section are not subject to the regulatory authority of the commissioner of
 18 insurance under Title 33 with respect to the purchase of excess or reinsurance coverage MAY OBTAIN
 19 EXCESS COVERAGE FROM A SURPLUS LINES INSURER WITHOUT PROCEEDING UNDER THE PROVISIONS
 20 OF 33-2-302(2) THROUGH (4). POLITICAL SUBDIVISIONS THAT ARE NOT IN A POOLED FUND MAY
 21 OBTAIN EXCESS COVERAGE FROM A SURPLUS LINES INSURER WITHOUT PROCEEDING UNDER THE
 22 PROVISIONS OF 33-2-302(2) THROUGH (4) ONLY IF THE INSURER CARRIES AN A RATING OR BETTER
 23 BY A NATIONALLY RECOGNIZED RATING COMPANY OR IS A LLOYDS OF LONDON UNDERWRITER.

24 (2) A political subdivision that elects to establish a deductible plan may establish a deductible
 25 reserve separately or jointly with other subdivisions.

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