

By: Senator(s) Kirby

To: Insurance;
Accountability, Efficiency,
Transparency

SENATE BILL NO. 2589

1 AN ACT TO AMEND SECTIONS 11-46-20, 19-7-7 AND 37-7-303,
2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF
3 INSURANCE TO CONDUCT AN EXAMINATION OF CERTAIN SELF-INSURANCE
4 PROGRAMS PROVIDING COVERAGE TO GOVERNMENTAL ENTITIES; AND FOR
5 RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 11-46-20, Mississippi Code of 1972, is
8 amended as follows:

9 11-46-20. (1) The Tort Claims Board shall be charged with
10 the responsibility to regulate all liability coverage of
11 governmental entities required to have certificates of coverage
12 under this chapter which elect to provide the same through a
13 public entity group or individual self-insurance program. This
14 regulation shall be accomplished through an initial approval as
15 provided in Section 11-46-17 and by ongoing or annual review.
16 Each self-insurance program shall annually submit to the Tort
17 Claims Board the following items within ninety (90) days from the
18 end of the group year:

19 (a) An audited financial statement;



20 (b) An actuarial valuation;
21 (c) Contracts with third-party administrators (if any);
22 (d) Excess insurance policies;
23 (e) A list of members and premiums due from and
24 collected from each member; and
25 (f) Other data as may be required by the Tort Claims
26 Board.

27 (2) Areas of regulation under this section shall include,
28 but not be limited to, the following:

29 (a) Financial solvency;
30 (b) Rating plans, rates and rating basis;
31 (c) Assessment plans of public entity groups;
32 (d) Coverages offered and excluded;
33 (e) Deductibles and deductible credits;
34 (f) Proper purchase of excess insurance or reinsurance;
35 and
36 (g) Review of losses, reserves and expenses annually.

37 (3) Individual self-insurers and group public entity
38 self-insurers must provide the data requested for the purposes of
39 this section in order to receive continuing approval of the Tort
40 Claims Board and issuance of annual certificates of coverage to
41 the governmental entities involved.

42 (4) The Tort Claims Board is authorized to assess and charge
43 appropriate fees for the costs of regulation, as determined by the



44 board, to the individual self-insurers and group public entity
45 self-insurers being regulated.

46 (5) The Tort Claims Board is empowered to:

47 (a) Issue cease and desist orders;

48 (b) Require rate increases or decreases;

49 (c) Require assessments of members of group public
50 entity self-insurers in such amounts as are authorized and
51 required by the board;

52 (d) Require changes in excess insurance or reinsurance;

53 or

54 (e) Take such other actions as deemed necessary by the
55 board to carry out the provisions of this chapter.

56 (6) The Commissioner of Insurance, or any person or persons
57 he may appoint, shall have the power to examine the affairs of any
58 such self-insurance program. The examination shall be conducted
59 in accordance with the provisions of Section 83-5-201 et seq. The
60 Commissioner of Insurance, or any person or persons he may
61 appoint, shall have free access to all the books and records that
62 relate to the self-insurance program. The expenses of the
63 examination shall be paid by the self-insurance program examined,
64 upon statement furnished by the Commissioner of Insurance, and the
65 examination shall be made as often as the commissioner, in his
66 sole discretion, deems appropriate, but at least once every five
67 (5) years. A copy of the final Report of Examination shall be
68 furnished to the Executive Director of the Tort Claims Board.



69 (7) Any person selling, soliciting or negotiating a
70 self-insurance program under this section shall be licensed as an
71 insurance producer pursuant to the provisions of Section 83-17-1
72 et seq., and such producer shall fully advise any prospective
73 public entity participant whether the self-insurance program is an
74 assessable program.

75 (8) Upon request, individual self-insurers and group public
76 entity self-insurers must provide to any person or entity that
77 requests a quote, a copy of their most recent audited financial
78 statement referenced in subsection (1)(a) of this section.

79 **SECTION 2.** Section 19-7-7, Mississippi Code of 1972, is
80 amended as follows:

81 19-7-7. The board of supervisors may have the courthouse,
82 jail and other buildings of the county, the furniture thereof, the
83 books of the county, and the personal property of the county,
84 insured against loss by fire, cyclone and tornado, and other
85 hazards. The board of supervisors may carry steam boiler, plate
86 glass and other miscellaneous casualty insurance against loss of
87 county property, as in the discretion of the board of supervisors
88 may seem proper. The cost thereof shall be paid out of the county
89 treasury.

90 The boards of supervisors of two (2) or more counties may
91 pool their risks under this section and may provide for the
92 purchase of one or more policies of property insurance, or the
93 establishment of a self-insurance fund or self-insurance reserves,



94 or any combination thereof. The cost of participation shall be
95 paid out of the general fund of the county. The administration
96 and service of any such self-insurance program shall be contracted
97 to a third party and approved by the Commissioner of Insurance.
98 The Commissioner of Insurance, or any person or persons he may
99 appoint, shall have the power to examine the affairs of any such
100 self-insurance program. The examination shall be conducted in
101 accordance with the provisions of Section 83-5-201 et seq. The
102 Commissioner of Insurance, or any person or persons he may
103 appoint, shall have free access to all the books and records that
104 relate to the self-insurance program. The expenses of the
105 examination shall be paid by the self-insurance program examined,
106 upon statement furnished by the Commissioner of Insurance, and the
107 examination shall be made as often as the commissioner, in his
108 sole discretion, deems appropriate, but at least once every five
109 (5) years.

110 Any person selling, soliciting or negotiating a
111 self-insurance program under this section shall be licensed as an
112 insurance producer pursuant to the provisions of Section 83-17-1
113 et seq., and such producer shall fully advise any prospective
114 county participant whether the self-insurance program is an
115 assessable program.

116 **SECTION 3.** Section 37-7-303, Mississippi Code of 1972, is
117 amended as follows:



118 37-7-303. (1) The school board of any school district may
119 insure motor vehicles for any hazard that the board may choose,
120 and shall insure the school buildings, equipment and other school
121 property of the district against any and all hazards that the
122 board may deem necessary to provide insurance against. In
123 addition, the local school board of any school district shall
124 purchase and maintain business property insurance and business
125 personal property insurance on all school district-owned buildings
126 and/or contents as required by federal law and regulations of the
127 Federal Emergency Management Agency (FEMA) as is necessary for
128 receiving public assistance or reimbursement for repair,
129 reconstruction, replacement or other damage to those buildings
130 and/or contents caused by the Hurricane Katrina Disaster of 2005
131 or subsequent disasters. The school district is authorized to
132 expend funds from any available source for the purpose of
133 obtaining and maintaining that property insurance. The school
134 district is authorized to enter into agreements with the
135 Department of Finance and Administration, other local school
136 districts, community/junior college districts, state institutions
137 of higher learning, community hospitals and/or other state
138 agencies to pool their liabilities to participate in a group
139 business property and/or business personal property insurance
140 program, subject to uniform rules and regulations as may be
141 adopted by the Department of Finance and Administration. Such
142 school board shall be authorized to contract for such insurance



143 for a term of not exceeding five (5) years and to obligate the
144 district for the payment of the premiums thereon. When necessary,
145 the school board is authorized and empowered, in its discretion,
146 to borrow money payable in annual installments for a period of not
147 exceeding five (5) years at a rate of interest not exceeding eight
148 percent (8%) per annum to provide funds to pay such insurance
149 premiums. The money so borrowed and the interest thereon shall be
150 payable from any school funds of the district other than minimum
151 education program funds. The school boards of school districts
152 are further authorized and empowered, in all cases where same may
153 be necessary, to bring and maintain suits and other actions in any
154 court of competent jurisdiction for the purpose of collecting the
155 proceeds of insurance policies issued upon the property of such
156 school district.

157 (2) Two (2) or more school districts, together with other
158 educational entities or agencies, may agree to pool their
159 liabilities to participate in a group workers' compensation
160 program. The governing authorities of any school board or other
161 educational entity or agency may authorize the organization and
162 operation of, or the participation in such a group self-insurance
163 program with other school boards and educational entities or
164 agencies, subject to the requirements of Section 71-3-5. The
165 Workers' Compensation Commission shall approve such group
166 self-insurance programs subject to uniform rules and regulations
167 as may be adopted by the commission applicable to all groups.



168 (3) The Commissioner of Insurance, or any person or persons
169 he may appoint, shall have the power to examine the affairs of any
170 self-insurance program established under subsection (1) of this
171 section. The examination shall be conducted in accordance with
172 the provisions of Section 83-5-201 et seq. The Commissioner of
173 Insurance, or any person or persons he may appoint, shall have
174 free access to all the books and records that relate to the
175 self-insurance program. The expenses of the examination shall be
176 paid by the self-insurance program examined, upon statement
177 furnished by the Commissioner of Insurance, and the examination
178 shall be made as often as the commissioner, in his sole
179 discretion, deems appropriate, but at least once every five (5)
180 years.

181 (4) Any person selling, soliciting or negotiating a
182 self-insurance program under subsection (1) of this section shall
183 be licensed as an insurance producer pursuant to the provisions of
184 Section 83-17-1 et seq., and such producer shall fully advise any
185 prospective school district participant or other participant
186 whether the self-insurance program is an assessable program.

187 **SECTION 4.** This act shall take effect and be in force from
188 and after its passage.

