

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2010

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 examiner he may  
57 appoint, shall have the power to examine the affairs of any such  
58 self-insurance program. The examination shall be conducted in  
59 accordance with the provisions of Section 83-5-201 et seq. The  
60 Commissioner of Insurance, or any examiner he may appoint, shall  
61 have free access to all the books and records that relate to the  
62 self-insurance program. The expenses of the examination shall be  
63 paid by the self-insurance program examined, upon statement  
64 furnished by the Commissioner of Insurance, and the examination  
65 shall be made at least once every five (5) years, but no more than  
66 once in any twelve-month period. Upon receipt of the verified  
67 report from the examiner, the Commissioner of Insurance shall  
68 transmit the report to the self-insured program examined, together



69 with a notice which shall afford the self-insured program examined  
70 a reasonable opportunity of not more than thirty (30) days to make  
71 a written submission or rebuttal with respect to any matters  
72 contained in the examination report. A copy of the final Report  
73 of Examination shall be furnished to the Executive Director of the  
74 Tort Claims Board.

75 (7) Any person selling, soliciting or negotiating a  
76 self-insurance program under this section shall be licensed as an  
77 insurance producer pursuant to the provisions of Section 83-17-1  
78 et seq., and such producer shall fully advise any prospective  
79 public entity participant the policy and procedures for member  
80 assessment adjustments and dividends provided by the  
81 self-insurance program.

82 (8) Upon request, individual self-insurers and group public  
83 entity self-insurers must provide to any public entity that  
84 receives a quote, a copy of their most recent audited financial  
85 statement referenced in subsection (1)(a) of this section.

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

88 19-7-7. The board of supervisors may have the courthouse,  
89 jail and other buildings of the county, the furniture thereof, the  
90 books of the county, and the personal property of the county,  
91 insured against loss by fire, cyclone and tornado, and other  
92 hazards. The board of supervisors may carry steam boiler, plate  
93 glass and other miscellaneous casualty insurance against loss of



94 county property, as in the discretion of the board of supervisors  
95 may seem proper. The cost thereof shall be paid out of the county  
96 treasury.

97 The boards of supervisors of two (2) or more counties may  
98 pool their risks under this section and may provide for the  
99 purchase of one or more policies of property insurance, or the  
100 establishment of a self-insurance fund or self-insurance reserves,  
101 or any combination thereof. The cost of participation shall be  
102 paid out of the general fund of the county. The administration  
103 and service of any such self-insurance program shall be contracted  
104 to a third party and approved by the Commissioner of Insurance.  
105 The Commissioner of Insurance, or any examiner he may appoint,  
106 shall have the power to examine the affairs of any such  
107 self-insurance program. The examination shall be conducted in  
108 accordance with the provisions of Section 83-5-201 et seq. The  
109 Commissioner of Insurance, or any examiner he may appoint, shall  
110 have free access to all the books and records that relate to the  
111 self-insurance program. The expenses of the examination shall be  
112 paid by the self-insurance program examined, upon statement  
113 furnished by the Commissioner of Insurance, and the examination  
114 shall be made at least once every five (5) years, but no more than  
115 once in any twelve-month period. Upon receipt of the verified  
116 report from the examiner, the Commissioner of Insurance shall  
117 transmit the report to the self-insured program examined, together  
118 with a notice which shall afford the self-insured program examined



119 a reasonable opportunity of not more than thirty (30) days to make  
120 a written submission or rebuttal with respect to any matters  
121 contained in the examination report.

122 Any person selling, soliciting or negotiating a  
123 self-insurance program under this section shall be licensed as an  
124 insurance producer pursuant to the provisions of Section 83-17-1  
125 et seq., and such producer shall fully advise any prospective  
126 county participant the policy and procedures for member assessment  
127 adjustments and dividends provided by the self-insurance program.

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

130 37-7-303. (1) The school board of any school district may  
131 insure motor vehicles for any hazard that the board may choose,  
132 and shall insure the school buildings, equipment and other school  
133 property of the district against any and all hazards that the  
134 board may deem necessary to provide insurance against. In  
135 addition, the local school board of any school district shall  
136 purchase and maintain business property insurance and business  
137 personal property insurance on all school district-owned buildings  
138 and/or contents as required by federal law and regulations of the  
139 Federal Emergency Management Agency (FEMA) as is necessary for  
140 receiving public assistance or reimbursement for repair,  
141 reconstruction, replacement or other damage to those buildings  
142 and/or contents caused by the Hurricane Katrina Disaster of 2005  
143 or subsequent disasters. The school district is authorized to



144 expend funds from any available source for the purpose of  
145 obtaining and maintaining that property insurance. The school  
146 district is authorized to enter into agreements with the  
147 Department of Finance and Administration, other local school  
148 districts, community/junior college districts, state institutions  
149 of higher learning, community hospitals and/or other state  
150 agencies to pool their liabilities to participate in a group  
151 business property and/or business personal property insurance  
152 program, subject to uniform rules and regulations as may be  
153 adopted by the Department of Finance and Administration. Such  
154 school board shall be authorized to contract for such insurance  
155 for a term of not exceeding five (5) years and to obligate the  
156 district for the payment of the premiums thereon. When necessary,  
157 the school board is authorized and empowered, in its discretion,  
158 to borrow money payable in annual installments for a period of not  
159 exceeding five (5) years at a rate of interest not exceeding eight  
160 percent (8%) per annum to provide funds to pay such insurance  
161 premiums. The money so borrowed and the interest thereon shall be  
162 payable from any school funds of the district other than minimum  
163 education program funds. The school boards of school districts  
164 are further authorized and empowered, in all cases where same may  
165 be necessary, to bring and maintain suits and other actions in any  
166 court of competent jurisdiction for the purpose of collecting the  
167 proceeds of insurance policies issued upon the property of such  
168 school district.



169           (2) Two (2) or more school districts, together with other  
170 educational entities or agencies, may agree to pool their  
171 liabilities to participate in a group workers' compensation  
172 program. The governing authorities of any school board or other  
173 educational entity or agency may authorize the organization and  
174 operation of, or the participation in such a group self-insurance  
175 program with other school boards and educational entities or  
176 agencies, subject to the requirements of Section 71-3-5. The  
177 Workers' Compensation Commission shall approve such group  
178 self-insurance programs subject to uniform rules and regulations  
179 as may be adopted by the commission applicable to all groups.

180           (3) The Commissioner of Insurance, or any examiner he may  
181 appoint, shall have the power to examine the affairs of any  
182 self-insurance program established under subsection (1) of this  
183 section. The examination shall be conducted in accordance with  
184 the provisions of Section 83-5-201 et seq. The Commissioner of  
185 Insurance, or any examiner he may appoint, shall have free access  
186 to all the books and records that relate to the self-insurance  
187 program. The expenses of the examination shall be paid by the  
188 self-insurance program examined, upon statement furnished by the  
189 Commissioner of Insurance, and the examination shall be made at  
190 least once every five (5) years, but no more than once in any  
191 twelve-month period. Upon receipt of the verified report from the  
192 examiner, the Commissioner of Insurance shall transmit the report  
193 to the self-insured program examined, together with a notice which





194 shall afford the self-insured program examined a reasonable  
195 opportunity of not more than thirty (30) days to make a written  
196 submission or rebuttal with respect to any matters contained in  
197 the examination report.

198 (4) Any person selling, soliciting or negotiating a  
199 self-insurance program under subsection (1) of this section shall  
200 be licensed as an insurance producer pursuant to the provisions of  
201 Section 83-17-1 et seq., and such producer shall fully advise any  
202 prospective school district participant or other participant the  
203 policy and procedures for member assessment adjustments and  
204 dividends provided by the self-insurance program.

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

