OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 416 of the 131st G.A.

Date: December 1, 2016

Status: As Reported by House Insurance

Sponsor: Rep. Schuring

Local Impact Statement Procedure Required: No

Contents: Allows state colleges and universities to establish a joint self-insurance pool

State Fiscal Highlights

- The bill may reduce costs to state colleges and universities by codifying legal liability limits when participating in a joint self-insurance pool, and eliminating uncertainty regarding possible future regulation and tax liability.
- The bill satisfies a statutory recommendation of the Ohio Task Force on Affordability and Efficiency in Higher Education in its report filed October 1, 2015.
- The bill would provide legal authorization and protections to the Inter-University Council (IUC) Insurance Consortium.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill authorizes state universities and colleges to use joint self-insurance pools to provide coverage for loss or liability that occurs while engaged in university business, and certain types of property and casualty coverage. Under current law, state universities and colleges are able to provide these types of coverage through the purchase of a policy with an insurer, use of a captive insurance company,[1] or other type of self-insurance program "in any other manner the board [of trustees of a state college or university] considers prudent." Currently, under that guidance, 13 of the 14 state colleges and universities have organized a group self-insurance pool through the Inter-University Council (IUC) Insurance Consortium.[2] The IUC Insurance Consortium presently operates loosely and informally as a voluntary nonprofit association. The report filed on October 1 of last year by the Ohio Task Force on Affordability and Efficiency in Higher Education recommended that the existing statute governing state college and university insurance coverage be modified to more closely resemble the authority granted to political subdivisions.[3] H.B. 416 accomplishes this recommendation; the proposed Revised Code section 3345.203 closely resembles the existing section governing political subdivision joint self-insurance pools and risk management.[4]

In practice, much of what the bill explicitly authorizes has already been implemented, therefore the fiscal effect is likely limited. The IUC Insurance Consortium claims to have saved its members more than $5 million by allowing them to fund their insurance on a group basis. This would not be changed by the bill. The most substantial fiscal effect of the bill would likely be cost savings from the elimination of uncertainty regarding possible future regulatory costs and tax liability. The bill clarifies that the Consortium is not subject to state and local taxes, or to regulation by the state Department of Insurance as an insurance company. The bill also limits the total liability of members to the amounts payable pursuant to the written agreement for participation in the pool.[5] These are also the key benefits of the legislation identified in the report on Affordability and Efficiency in Higher Education.

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[1] A captive insurance company is created and owned by a noninsurance company or organization for the purpose of insuring the owner's risks. It is subject to regulation by the Department of Insurance.

[2] The Ohio State University is a member of the Inter-University Council but does not participate in the Insurance Consortium.

[3] https://www.ohiohighered.org/sites/ohiohighered.org/files/uploads/affordability-efficiency/Action-Steps-to-Reduce-College-Costs_100115.pdf, p.43.

[4] R.C. 2744.081.

[5] R.C. 3345.203(E).

Funds for the group self-insurance pool are to be reserved from the members "as are necessary" to cover potential liabilities, loss, and damage. The required funds would be determined by an actuary, to be contracted with by the self-insurance pool. Amounts reserved and disbursements made would be reported annually by the actuary and the pool administrator.[6] In practice, the Consortium already contracts with accountants, auditors, and actuaries who perform an annual study of the pool, therefore additional costs to the Consortium (and thus the members) necessary to meet the requirements of the bill, if any, will likely be minimal. Deductibles and costs of the pool to the members can be paid from state school funds. Costs to each member of funding the pool may be allocated on the basis of their relative exposure and loss experience.

The pool administrator itself would also need to be selected by the board of trustees establishing a joint self-insurance pool; the bill specifies that the board may award a contract to an administrator without the need for competitive bidding. In practice, Marsh USA currently acts as the "pool administrator."

Finally, the bill authorizes the state colleges and universities to issue bonds or notes to cover their obligations to the joint self-insurance pool. Based on correspondence with officials from the Consortium, the issuing of notes by the members to cover expenses is not expected, however it will now be explicitly allowed should significant losses cause the need to arise. This bill should not substantially change the likelihood of significant losses within a short period of time, however, the authorization to issue notes may provide additional cost coverage options to the members in such an event.

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[6] The annual report would be maintained in the office of the pool administrator and made available for inspection upon request by any person. The joint self-insurance pool would be otherwise exempt from public records requests governed by R.C. 149.431.