



COUNTY ADVISORY BULLETIN

CAB

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BULLETIN 2013-01

FEBRUARY, 2013

ALLOCATING THE COST OF PROPERTY AND LIABILITY INSURANCE TO FUNDS IN THE COUNTY TREASURY

APPLICABLE LEGISLATION: Am. Sub. SB 114

REVISED CODE SECTIONS: Amends ORC Sections 2744.081 and 2744.082

SPONSOR: Seitz

CO-SPONSORS:

Senators: Bacon, Beagle, Burke, Daniels, Hite, Hughes, Kearney, LaRose, Patton, Sawyer, Schiavoni, Smith, Tavares, Turner, Wilson

Representatives: Speaker Batchelder, Kozlowski, Letson, Murray, Phillips, Rosenberger, Ruhl, Uecker, Winburn

EFFECTIVE DATE: March 22, 2013

INTRODUCTION

The purpose of this CAB is to discuss the practice of charging the costs of property and liability insurance costs to special revenue funds and other non-general revenue funds in the county treasury.

Two recent developments make this topic very timely. First, on November 27, 2012, the Ohio Supreme Court, in the case *Stockberger v. Henry* (Slip Opinion No. 2012-Ohio-5392.) issued its opinion concerning the constitutionality of using motor vehicle license and gas tax monies to pay for insurance-related costs. Second, the Legislature enacted Am. Sub. SB 114 that provides additional clarification concerning allocating the cost of

insurance or self-insurance, addresses the issue of joint self-insurance pool deductibles, and provides new authority for the collection of allocated costs and deductibles by members of joint self-insurance pools.

As a general rule, counties insure against liability and property exposures in one of three ways. First, the county may purchase commercial insurance covering the risk. However, most counties now cover risk and exposure through the use of self-insurance. Ohio law specifically allows two types of self-insurance: individual self-insurance (ORC 2744.08) and joint self-insurance (ORC 2744.081).

CCAO's joint self-insurance program or pool, the County Risk Sharing Authority (CORSA), was formed in 1987. CORSA's current membership includes 65 counties, 19 multi-county jails and juvenile detention facilities, and the recently organized South Central Ohio Job and Family Services Department which includes Ross, Vinton, and Hocking counties.

This CAB will discuss the details of the new law; summarize the former law and the legislative history of relevant sections of the Ohio Revised Code; discuss the contentious issue of paying for insurance costs from the motor vehicle license and gas tax fund, including the recent Ohio Supreme Court decision that addressed this issue; describe the methodology CORSA uses to allocate the costs among benefitting funds in the county treasury; explains how to charge or invoice a special fund to pay for the allocated cost of insurance and deductibles that are directly attributable to a loss; and, recommend a procedure to collect allocated costs and deductibles if a department head or elected official supported primarily with funds outside of the county general fund refuses to pay for allocated costs and deductibles.

THE LAW PRIOR TO THE ENACTMENT OF AM. SUB. SB 114

Counties generally pay the cost of an insurance premium or a contribution to a self-insurance program from the county general fund. When a county purchases commercial insurance or establishes an individual self-insurance program, the county "may allocate the costs . . . among the funds or accounts in the subdivision's treasury on the basis of relative exposure and loss experience." (ORC 2744.08(A)(2)).

Similarly, where a county participates in a joint self-insurance pool, like CORSA, "a joint self-insurance pool may allocate the costs of funding the pool among the funds or accounts in the treasuries of the political subdivisions on the basis of their relative exposure and loss experience." (ORC 2744.081(A)(4)).

For a county that purchases commercial insurance or has its own individual self-insurance program, the law also specifically authorized the political subdivision to "require any deductibles . . . to be paid from funds or accounts in the subdivision's treasury from which a loss was directly attributable." This specific authority had not previously existed for those counties that participated in a joint self-insurance pool.

Finally, for a county that purchases commercial insurance or has its own individual self-insurance program, Ohio law contains a procedure commissioners could use to assure that funds allocated for the cost of insurance or individual self-insurance or deductibles directly attributable to the loss would be remitted to the general fund in the event the department head or elected official refused to pay for the obligation (See prior version of ORC Section 2744.082). This authority, which will be discussed in more detail later in this CAB, did not apply to those counties that participated in joint self-insurance pools.

SUMMARY OF CHANGES IN THE LAW ENACTED IN AM. SUB. S. B. 114

Am. Sub. SB 114, effective March 22, 2013 makes two significant changes to the law as it relates to members of a joint self-insurance pool, like CORSA, as follows:

1. **Joint Self-Insurance Pool Deductibles** - ORC Section 2744.081(A)(4) has been amended to specifically provide that “a joint self-insurance program may require any deductible under the program to be paid from funds or accounts in the treasury of the political subdivision from which a loss was directly attributable.” This essentially provides for the same authority that currently exists for counties that purchase commercial insurance or establish an individual self-insurance program.
2. **Collection Procedure For Allocated Costs or Deductibles** - ORC Section 2744.082 was also amended so that it now also applies to joint self-insurance pools. This section of law formerly only applied to the purchase of commercial insurance or individual self-insurance programs.

Under ORC Section 2744.082, if the cost of commercial insurance, individual self-insurance, or joint self-insurance is allocated to other funds and if the payment of deductibles is to be paid from such funds, an invoice or other request for payment would be made to the employee responsible for payment.

If payment is not made within 45 days from the date of receipt of the request, then the board of county commissioners may adopt a resolution stating that the payments have not been made and requesting the county auditor to transfer the amounts of the allocated costs and/or deductibles to the general fund pursuant to ORC Section 2744.082. As amended, ORC Section 2744.082 provides that the county auditor shall transfer the amounts in question if the board of county commissioners adopts such a resolution.

These transfers are not subject to the regular transfer provisions of ORC Sections 5705.14 to 5705.16. This is important because transfers from a special revenue fund to the general fund usually requires filing a petition in the common pleas court and approval by the Ohio Tax Commissioner. These requirements are waived under ORC 2744.082.

A copy of ORC Sections 2744.081 and 2744.082 in Act form are reproduced at the end of the CAB as Exhibit 1. For a complete history of these Sections of the Ohio Revised Code and ORC Section 2744.08 refer to Exhibit 3.

ALLOCATING COSTS OF INSURANCE TO THE ENGINEER'S HIGHWAY DEPARTMENT TO BE PAID FROM THE MOTOR VEHICLE LICENSE AND GAS TAX FUND

Probably the most contentious issue related to the allocation of insurance costs to entities and special funds in the county treasury was whether it was constitutional to pay the costs from the county engineer's motor vehicle license and gas tax fund.

Despite clear authority under the Ohio Revised Code, three Ohio Attorney General Opinions and a ruling by the Auditor of State in October, 1995 that such payments could be made, some county engineers, at the urging of the County Engineer's Association of Ohio (CEAO), refused to pay for their proportional costs of providing insurance coverage resulting in the cost being absorbed by the county general fund.

The first of the three Ohio Attorney General Opinions is 1988 OAG No. 88-067, which held that such revenues may be used to pay the portion of the costs of a county's self-insurance program which are allocable to liability imposed with respect to the county's duty to keep its roads in repair.

The second is 1994 OAG No. 94-031, which held that such revenues may be used to pay the portion of the costs of insurance which are allocable to liability imposed for acts or omissions of the county engineer or his employees while operating motor vehicles or other heavy equipment or machinery.

The third opinion, 1997 OAG No. 97-020 stated that a settlement or judgment could be paid from such revenues, and the opinion also re-affirmed the preceding two opinions.

Auditor of State Bulletin 95-014 stated that under ORC 315.12, the cost of liability insurance may be allocated to and paid out of the portion of the of the county engineer's budget that is funded with state motor vehicle license tax and motor vehicle fuel tax funds.

The Knox County Board of Commissioners approached CCAO for assistance on the issue. The Knox County Commissioners made repeated requests to the Knox County Engineer for payment of the engineer's portion of the CORSA program costs, and also for payments of deductibles for claims incurred by the Knox County Engineer. Acting upon advice by the CEAO, the Knox County Engineer stated that under the Ohio Constitution, MVGT funds could only be used for "highway purposes", and that property and liability insurance premiums, CORSA program costs, and deductible payments do not constitute highway purposes. It became clear that the issue could only be resolved by the courts, and CCAO agreed to support the Knox County Commissioners in a suit

against the Knox County Engineer which asked the court to rule on the constitutionality of the engineer using MVGT funds to pay CORSA program costs.

To that end, an initial lawsuit was brought in the Knox County Court of Common Pleas in September 2003. Both the trial court and the appellate court ruled in favor of the commissioners, declaring that it was constitutional to pay CORSA program costs from MVGT funds.

However, when the case was decided by the Ohio Supreme Court in 2006 (*Knox County Board of Commissioners v Knox County Engineer*, 109 Ohio St.3d 353 2006), the court essentially ruled in favor of the engineer and stated that the record in the case did not contain sufficient evidence regarding whether the specific insurance premiums at issue were directly connected with a highway purpose. The court went on to say that if the record had contained information linking the premiums with a highway purpose, the outcome of the case might have been different.

Acting upon the Ohio Supreme Court guidelines set forth in *Knox I*, CORSA and CCAO staff then developed invoices and back-up work sheets which clearly demonstrated that both the program costs and deductibles were directly connected to a highway purpose. The Auditor of State also issued a letter to the executive directors of the CCAO, CEOA, and the Ohio Prosecuting Attorneys Association authorizing the county engineer to pay insurance premiums and program costs as long as information was provided that established the link between the program costs and a highway purpose. CCAO and CORSA distributed sample invoices and back-up work sheets, along with the letter from the Auditor of State, for the commissioners to use to bill the engineer.

After the Knox County Engineer again refused to pay the program costs and deductible invoices, the commissioners filed another suit (*Knox II*) in February 2008, which asked the court to decide if the invoices and back-up information were directly connected with a highway purpose.

The trial court again ruled that it was constitutional for the engineer to use MVGT funds to pay both insurance premiums and deductibles from the MVGT funds. The appellate court ruled that it was constitutional to pay deductibles from the MVGT funds, but not insurance premiums. As mentioned previously, on November 27, 2012, the Ohio Supreme Court ruled unanimously in the favor of the commissioners, holding that it is constitutional for the engineer to use motor vehicle license and gas tax funds to pay insurance-related costs associated with the operation of the county engineer's highway department.

THE CORSA METHODOLOGY TO ALLOCATE COSTS AMONG BENEFITTING FUNDS IN THE COUNTY TREASURY

The law allows the costs to be allocated "among the funds... on the basis of (their) relative exposure and loss experience" (ORC Sections 2744.08 and 2744.081). CORSA provides a cost allocation system for members that can be used to allocate program

costs to the various departments and offices. The methodology can be used by any county to allocate insurance premiums. The first step in the allocation process is to establish the premiums for each line of coverage (property, auto liability and physical damage, general liability, public official's liability, and law enforcement liability).

The rating basis that is used to establish the premium must also be determined. For example, property premiums are determined by property values, the auto premiums can be based on the number of vehicles, and the payroll is often used for general liability and public official's liability. Law enforcement is often broken down by road patrol, where the number of deputies is used, and jail and detention, which is based on the number of inmates or detainees.

The cost of each line of coverage for an office or department is based on the proportion of exposure of that office or department to the total exposure of the county. For example, if the property premium for the county is \$50,000 and the county has total property value of \$100 million, and the engineer's highway department property value is \$10 million, the engineer's portion of the property premium is \$5,000 ($\$10\text{m}/\$100\text{m} \times \$50,000$). Likewise, if the county's general liability premium is \$100,000, and total county payroll is \$50 million, and if the engineer's highway department payroll is \$5 million, the engineer's portion of the general liability premium is \$10,000 ($\$5\text{m}/\$50\text{m} \times \$100,000$).

CHARGING THE ALLOCATED COST OF INSURANCE, INDIVIDUAL SELF-INSURANCE, OR JOINT SELF-INSURANCE TO SPECIAL FUNDS

Once the allocated cost of providing the insurance or self-insurance coverage is determined, the cost should be allocated to the benefitting department or elected official that maintains the special revenue or other fund and an invoice should be sent to pay the obligation. In addition, it might be advisable to establish a line item in the special revenue fund for the payment of the allocated cost of insurance or self-insurance, or a line item to pay for both the allocated cost of insurance and deductibles.

CHARGING DEDUCTIBLES TO SPECIAL FUNDS

Both ORC Sections 2744.08 and 2744.081 provide that the commissioners may require any deductible to be paid "from funds or accounts . . . from which a loss was directly attributable."

It is suggested that the commissioners submit an invoice to the department or elected official that maintains the special revenue or other fund for payment of the deductible obligation. The invoice should include a description of the claim for which the loss was directly attributable. In addition, it might be advisable to establish a line item in the special revenue fund for the payment of insurance or self-insurance deductibles, or a line item to pay for both the allocated cost of deductibles and insurance.

RECOMMENDED PROCEDURE TO COLLECT ALLOCATED COST OF INSURANCE OR SELF-INSURANCE AND DEDUCTIBLES WHEN A DEPARTMENT HEAD OR ELECTED OFFICIAL REFUSES TO PAY

ORC Section 2744.082 was enacted to deal with the situation of where a department head or elected official refuses to pay for either the allocated premium cost of insurance or self-insurance or deductibles directly attributable to the office. Following is recommended process for the collection of allocated costs and deductibles from special revenue funds:

1. Calculate the allocated cost of insurance or self-insurance using a fair and valid methodology consistent with ORC Sections 2744.08 and 2744.081. In the case of deductibles determine to which department or elected official the claim is directly attributable.
2. Send an invoice for the amount of the allocated cost of insurance or self-insurance and for deductibles that are directly attributable to the claim to the department head or elected official that is responsible for the special revenue or other fund from which the commissioners seek payment of the invoice.
3. If the invoice is not paid within 45 days after the receipt of the invoice, send a letter to the department or elected official inquiring on the status of the payment. Or give the department head or elected official a call to inquire about the payment of the invoice.
4. If the department head or elected officials refuses to pay the invoice or if payment is not received within a reasonable period of time, the commissioners at a regular session of the board should adopt a resolution informing the county auditor of the non-payment of the invoice and asking that the auditor transfer funds equal to the amount of the invoice from the appropriate fund to the general fund pursuant to Division A of ORC Section 2744.082.

The resolution should be accompanied by a copy of the dated invoice sent to the department head or elected official and any other communications received from the department head or elected official relating to the invoice.

These transfers are exempt from the requirements of ORC 5705.14 to 5705.16, and are, in particular, exempt from the general requirement that transfers from a special fund to the general fund can only be made after a petition is filed in common pleas court and approved by the Ohio Tax Commissioner. A sample resolution is included as Exhibit 3.

IS THE CONTROVERSY WITH COUNTY ENGINEERS' OVER?

One would think that the definitive ruling by the Supreme Court along with this statutory change would resolve the issue with county engineers across the state. However,

unfortunately this does not appear to be the case. It appears the county engineer's Association of Ohio believes, notwithstanding the ruling by the Supreme Court or the recent statutory changes, that county engineers' are not required to make the payments for the fair allocated cost for the provision of insurance for the county engineer's highway department.

Efforts may be made by engineers' to change the statutory provisions explained in this CAB. In addition, it is possible that efforts by commissioners to collect the allocated amount will be challenged by some county engineers. This could result in conflicts between elected officials, including the county auditor and prosecutor, and the possibility of additional legal action. Now that we know there is no constitutional prohibition in using motor vehicle license and gas tax dollars to pay for property and liability insurance, we hope commissioners and engineers can work together to resolve any disagreements short of court action. Only time will tell.

EXHIBIT 1

OHIO REVISED CODE SECTIONS 2744.081 AND 2744.082

AS AMENDED BY AM. SUB. S. B. 114 OF THE 129TH GENERAL ASSEMBLY

EFFECTIVE MARCH 22, 2013

Sec. 2744.081. (A) Regardless of whether a political subdivision, under section 2744.08 of the Revised Code, secures a policy or policies of liability insurance, establishes and maintains a self-insurance program, or enters into an agreement for the joint administration of a self-insurance program, the political subdivision may, pursuant to a written agreement and to the extent that it considers necessary, join with other political subdivisions in establishing and maintaining a joint self-insurance pool to provide for the payment of judgments, settlement of claims, expense, loss, and damage that arises, or is claimed to have arisen, from an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function and to indemnify or hold harmless the subdivision's employees against such loss or damage.

All of the following apply to a joint self-insurance pool under this section:

(1) Such funds shall be reserved as are necessary, in the exercise of sound and prudent actuarial judgment, to cover potential political subdivision and employee liability, expense, loss, and damage. A report of amounts so reserved and disbursements made from such funds, together with a written report of a member of the American academy of actuaries certifying whether the amounts reserved conform to the requirements of this division, are computed in accordance with accepted loss reserving standards, and are fairly stated in accordance with sound loss reserving principles, shall be prepared and maintained in the office of the pool administrator described in division (A)(2) of this section. The report shall be prepared and maintained on or before the last day of March for the preceding calendar year or, if the joint self-insurance pool's fiscal year is other than a calendar year, not later than ninety days after the close of the pool's fiscal year.

The report required by this division shall include, but not be limited to, disbursements made for the administration of the pool, including claims paid, costs of the legal representation of political subdivisions and employees, and fees paid to consultants.

The pool administrator described in division (A)(2) of this section shall make the report required by this division available for inspection by any person at all reasonable times during regular business hours, and, upon the request of such person, shall make copies of the report available at cost within a reasonable period of time.

(2) A contract may be awarded, without the necessity of competitive bidding, to any person, political subdivision, nonprofit corporation organized under Chapter 1702. of the Revised Code, or regional council of governments created under Chapter 167. of the Revised Code for purposes of administration of a joint self-insurance pool. No such contract shall be entered into without full, prior, public disclosure of all terms and conditions. Such disclosure shall include, at a minimum, a statement listing all representations made in connection with any possible savings and losses resulting from such contract, and potential liability of any political subdivision or employee. The proposed contract and statement shall be disclosed and presented at a meeting of the political subdivision not less than one week prior to the meeting at which the political subdivision authorizes the contract.

(3) A joint self-insurance pool shall include a contract with a member of the American academy of actuaries for the preparation of the written evaluation of the reserve funds required under division (A)(1) of this section.

(4) A joint self-insurance pool may allocate the costs of funding the pool among the funds or accounts in the treasuries of the political subdivisions on the basis of their relative exposure and loss experience. A joint self-insurance program may require any deductible under the program to be paid from funds or accounts in the treasury of the political subdivision from which a loss was directly attributable.

(B) Two or more political subdivisions may also authorize the establishment and maintenance of a joint risk-management program, including but not limited to the employment of risk managers and consultants, for the purpose of preventing and reducing the risks covered by insurance, self-insurance, or joint self-insurance programs.

(C) A political subdivision is not liable under a joint self-insurance pool for any amount in excess of amounts payable pursuant to the written agreement for the participation of the political subdivision in the joint self-insurance pool. Under a joint self-insurance pool agreement a political subdivision may, to the extent permitted under the written agreement, assume the risks of any other political subdivision, including the indemnification of its employees. A joint self-insurance pool, established under this section, is deemed a separate legal entity for the public purpose of enabling the members of the joint self-insurance pool to obtain insurance or to provide for a formalized, jointly administered self-insurance fund for its members. An entity created pursuant to this section is exempt from all state and local taxes.

(D) Any political subdivision may issue general obligation bonds, or special obligation bonds which are not payable from real or personal property taxes, and may also issue notes in anticipation of such bonds, pursuant to an ordinance or resolution of its legislative authority or other governing body for the purpose of providing funds to pay judgments, losses, damages, and the expenses of litigation or settlement of claims, whether by way of a reserve or otherwise, and to pay the political subdivision's portion of the cost of establishing and maintaining a joint self-insurance pool or to provide for the reserve in the special fund authorized by division (A)(2)(a) of section 2744.08 of the Revised Code.

In its ordinance or resolution authorizing bonds or notes under this section, a political subdivision may elect to issue such bonds or notes under the procedures set forth in Chapter 133. of the Revised Code. In the event of such an election, notwithstanding Chapter 133. of the Revised Code, the maturity of the bonds may be for any period authorized in the ordinance or resolution not exceeding twenty years, which period shall be the maximum maturity of the bonds for purposes of section 133.22 of the Revised Code.

Bonds and notes issued under this section shall not be considered in calculating the net indebtedness of the political subdivision under sections 133.04, 133.05, 133.06, and 133.07 of the Revised Code. Sections 9.98 to 9.983 of the Revised Code apply to bonds or notes authorized under this section.

(E)(1) A joint self-insurance pool, in addition to its powers to provide self-insurance against any and all liabilities under this chapter, may also include any one or more of the following forms of property or casualty self-insurance for the purpose of covering any other liabilities or risks of the members of the pool:

(a) Public general liability, professional liability, or employees liability;

(b) Individual or fleet motor vehicle or automobile liability and protection against other liability and loss associated with the ownership, maintenance, and use of motor vehicles;

(c) Aircraft liability and protection against other liability and loss associated with the ownership, maintenance, and use of aircraft;

(d) Fidelity, surety, and guarantee;

(e) Loss or damage to property and loss of use and occupancy of property by fire, lightning, hail, tempest, flood, earthquake, or snow, explosion, accident, or other risk;

(f) Marine, inland transportation and navigation, boiler, containers, pipes, engines, flywheels, elevators, and machinery;

(g) Environmental impairment;

(h) Loss or damage by any hazard upon any other risk to which political subdivisions are subject, which is not prohibited by statute or at common law from being the subject of casualty or property insurance.

(2) A joint self-insurance pool is not an insurance company. Its operation does not constitute doing an insurance business and is not subject to the insurance laws of this state.

(F) A public official or employee of a political subdivision who is or becomes a member of the governing body of a joint self-insurance pool in which the political subdivision participates is not in violation of division (D) or (E) of section 102.03, division (C) of section 102.04, or section 2921.42 of the Revised Code as a result of the political subdivision's entering under this section into the written agreement to participate in the pool or into any contract with the pool.

(G) This section shall not be construed to affect the ability of any political subdivision to self-insure under the authority conferred by any other section of the Revised Code.

Sec. 2744.082. (A) If a political subdivision, pursuant to division (A)(2)(a) of section 2744.08 of the Revised Code or a joint self-insurance pool pursuant to section 2744.081 of the Revised Code, has allocated costs to, or required the payment of deductibles from, funds or accounts in the subdivision's treasury, the subdivision's fiscal officer, pursuant to an ordinance or resolution of the subdivision's legislative authority, shall transfer amounts equal to those costs or deductibles from the funds or accounts to the subdivision's general fund if both of the following occur:

(1) The subdivision requests payment from the employee responsible for the funds or accounts for those costs or deductibles;

(2) The employee receiving the request fails to remit payment within forty-five days after the date of receipt of the request.

(B) Sections 5705.14, 5705.15, and 5705.16 of the Revised Code do not apply to transfers made pursuant to this section.

EXHIBIT 2

LEGISLATIVE HISTORY OF ORC SECTIONS 2744.08, 2744.081 AND 2744.082

Changes Enacted in S. B. 114 shown in Red

ORC Section	Description of Legislation	Bill/Effective Date
2744.08 Enacted	Authorized political subdivisions, including counties, to purchase liability insurance and to establish and maintain individual county self-insurance programs.	Am. Sub. H.B. 176 Effective 11-20-85
2744.08 Amended	Allowed for the reserve of funds for claims in a special revenue fund. Allowed for the allocation of costs of insurance or individual county self-insurance among funds and accounts in the county treasury on the basis of relative exposure and loss experience.	Am. Sub. H.B. 875 Effective 6-7-86
2744.08 Amended	Allowed political subdivisions, including counties, which were purchasing insurance or that had established an individual county self-insurance program to require deductibles to be paid from funds or accounts in the county treasury from which the loss was directly attributable.	Am. Sub. H.B.66 Effective 9-29-05
2744.081 Enacted	<p>Authorized political subdivisions, including counties, to join with other political subdivisions by written agreement to establish and maintain a joint self-insurance pool.</p> <p>Required funds to be reserved using sound and prudent actuarial judgment, and required an annual written report of amounts reserved and disbursed by a qualified actuary. The actuary also had to certify that the funds reserved were adequate, and the report had to include a variety of other information. The joint self-insurance pool was required to have a contract with a member of the American Academy of Actuaries to prepare the written evaluation of reserves.</p> <p>Required the report to be submitted to the Superintendent of Insurance by March 31 for the preceding year for review and approval. Superintendent was required to determine if reserves were adequate. If Superintendent found reserves were not adequate, the Superintendent could order corrections to assure reserves were adequate. The joint self-insurance pool had to pay for these services.</p> <p>Allowed a joint self-insurance pool to contract for the administration of the pool with a person, political subdivision, non-profit corporation, or regional council of governments.</p> <p>Allowed a joint self-insurance pool to allocate the cost of funding the pool among funds or accounts in the treasuries of the political subdivisions on the basis of relative exposure or loss experience.</p> <p>Authorized two or more political subdivisions to establish a joint risk management program to reduce risks covered by the purchase of insurance, self-insurance, or joint self-insurance.</p> <p>Provided that a political subdivision that is a member of a joint self-insurance pool is not liable for an amount in excess of the amount under the written agreement executed when entering the program. Also allowed political subdivisions to assume the risks of other political</p>	Am. Sub. H.B. 875 Effective 6-7-86

	<p>subdivisions to the extent it was authorized under the written agreement.</p> <p>Provided that a joint self-insurance pool is not an insurance company and is not subject to insurance laws. Exempted the pool from all state and local taxes.</p> <p>Authorized political subdivisions to issue debt to pay to participate in a pool and to pay claims and judgments.</p> <p>Specifically authorized the pool to include, in addition to insurance for liability coverage, the following forms of property and casualty self-insurance: (1) public general liability, professional liability, or employee liability (2) individual or fleet motor vehicle or auto liability (3) aircraft liability and protection against liability and loss with aircraft (4) fidelity, surety and guarantee (5) loss or damage to property and loss of use of property by fire, lightning, hail, tempest, flood, earthquake, snow, accident, explosion or other risk (6) marine, inland transportation and navigation, boiler, containers, pipes, engines, flywheels, elevators, and machinery (7) environmental impairment (8) other loss and damage and other risks as long as not prohibited by statute or common law from being covered by property and casualty insurance.</p>	
2744.081 Amended	Made various changes to the law concerning the issuance of debt relating to a joint self-insurance pool, primarily as a result of other changes that were made to the uniform bond law.	Sub. H. B. 230 Effective 10-30-89
2744.081 Amended	<p>Eliminated all requirements requiring the Superintendent of Insurance from reviewing and certifying the adequacy of the reserves of a pool.</p> <p>Required the administrator of a joint self-insurance pool to have the report required under former law to be prepared and maintained in the office of the pool administrator. Continued to require the report to be prepared by March 31, however, if the fiscal year of the pool was not a calendar year, then the report was due within 90 days after the close of the pool's fiscal year.</p> <p>Required the pool administrator to make the report available for public inspection at all reasonable times and during regular business hours and required the administrator to make copies available at cost within a reasonable period of time.</p>	Sub. H. B. 152 Effective 7-1-93
2744.081 Amended	Provided that a public official or employee who is a member of the governing board of a joint self-insurance pool is not in violation of certain ethics statutes if the person is a party to a written agreement for the political subdivision to participate in the pool or for any contract with the pool.	Am. Sub. H. B. 213 Effective 10-6-94
2744.081 Amended	Provided that a pool could require any deductible under the program to be paid from funds or accounts in the treasury of the political subdivision from which a loss was directly attributable.	Am. Sub. S. B 114 Effective 3-22-13
2744.082 Enacted	Provided that if a political subdivision has allocated costs or required the payment of deductibles from funds or accounts in the subdivision's treasury that the subdivision's fiscal officer (the county auditor) must transfer to the subdivision's general fund the amounts of the allocated costs or deductibles if the subdivision adopts an ordinance or resolution to that effect after the following occurs: (1) the subdivision requests payment of the allocated costs or deductibles from the employee	Am. Sub. H.B.66 Effective 9-29-05

	<p>responsible for the funds or accounts, and (2) the employee receiving the request fails to remit the payment within 45 days after receipt.</p> <p>This provision only applied to individual county self-insurance programs not to joint self-insurance programs</p> <p>Specifically provided that such a transfer was exempt from ORC Sections 5705.14-5705.16, which generally requires that transfers from special revenue and other funds to the general fund are subject to filing a petition in common pleas court and approval from the Tax Commissioner.</p>	
<p>2744.082 Amended</p>	<p>Made the provisions of this section, (ORC 2744.082) also apply to joint self-insurance pools established under ORC Section 2744.081. Under the former law this section of law only applied to individual self-insurance programs authorized under ORC Section 2744.08.</p>	<p>Am. Sub. S. B 114 Effective 3-22-13</p>

EXHIBIT 3

SAMPLE RESOLUTION REQUESTING THE COUNTY AUDITOR TO TRANSFER FUNDS TO THE GENERAL FUND FOR THE PAYMENT OF ALLOCATED INSURANCE OR SELF-INSURANCE COSTS AND/OR FOR THE PAYMENT OF INSURANCE DEDUCTIBLES PURSUANT TO ORC SECTION 2744.082

NOTE: This sample resolution is prepared for those counties that participate in CORSA and should be modified for those counties that participate in other joint self-insurance programs, purchase commercial insurance, or maintain an individual self-insurance program.

Commissioner _____ moved the adoption of the following resolution:

WHEREAS, the _____ Board of County Commissioners provide property, casualty and liability insurance coverage pursuant to ORC Section 2744.081 and is a member of the County Risk Sharing Authority (CORSA), and

WHEREAS, ORC Section 2744.081(A)(4) provides that “A joint self-insurance pool may allocate the costs of funding the pool among the funds or accounts in the treasuries of the political subdivisions on the basis of their relative exposure and loss experience. A joint self-insurance program may require any deductible under the program to be paid from funds or accounts in the treasury of the political subdivision from which a loss was directly attributable”, and

WHEREAS, the _____ Board of County Commissioners has determined that it is in the best interests of the county to allocate the cost of the coverage provided and to require the payment of deductibles to funds from which losses are directly attributable, and

WHEREAS, ORC Section 2744.082 authorizes the Board of County Commissioners to adopt a resolution requesting the county auditor to transfer monies from funds and accounts in the county treasury for the allocated cost of coverage and/or deductibles if both of the following occurs:

1. The board of county commissioners requests payment from the person responsible for the funds or accounts, and
2. The person responsible for the funds or accounts fails to remit payments within 45 days from the receipt of the request, and

WHEREAS, the Board of County Commissioners made a request for payment, in the form of an invoice, for (insert either the allocated cost of coverage OR deductibles and specify the specific loss for which the deductible was requested) to _____(name and title) on _____ (insert date) and payment has not been received.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of _____ County as follows:

Section 1. On _____(insert date) the Board of County Commissioners requested payment in the form of an invoice in the amount of \$_____ for the payment of _____(allocated cost of coverage or for a deductible and the specific name or description of the loss directly attributable to the office).

Section 2. That payment for the amount detailed in the invoice has not been received and that more than 45 days have occurred since the receipt of the invoice.

Section 3. That the Board of County Commissioners desires the county auditor to transfer the amount detailed in Section 1 above from the _____(name of fund or account) to the county general fund as required by ORC Section 2744.082.

Section 4. That such a transfer is not subject to ORC Sections 5705.14-5705.16.

Section 5. That the Clerk is directed to transmit a copy of this resolution to the county auditor along with a copy of the invoice submitted as detailed in Section 1 and that a copy of the resolution also be transmitted to _____ (name of the office that has not paid the invoice).

Seconded by Commissioner _____

Roll Call Vote:

The Board of County Commissioners hereby finds and determines that all formal actions relative to the passage of this Resolution were taken in an open meeting of this Board, and that deliberations of this Board and its Committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.