

**SENATE COMMITTEE AMENDMENTS**

2015 Regular Session

Amendments proposed by Senate Committee on Insurance to Original Senate Bill No. 171  
by Senator Morrish

1 AMENDMENT NO. 1

2 On page 1, line 2, change "22:454(A)" to "22:453(B) and (C)" and at the end of the line  
3 insert "454(C), and 458.1,"

4 AMENDMENT NO. 2

5 On page 1, line 9, change "22:454(A)" to "22:453(B) and (C)"

6 AMENDMENT NO. 3

7 On page 1, line 10, after "and (5)" insert ", 454(C), and 458.1"

8 AMENDMENT NO. 4

9 On page 2, delete line 6 and insert:  
10 "§453. Certificate of authority

11 \* \* \*

12 B. Each application for a certificate of authority shall be made on forms prescribed  
13 by the commissioner, shall be verified by the self-insurer or its authorized representative,  
14 and shall set forth or be accompanied by all of the following items:

15 (1) A copy of the self-insurer's bylaws and all management, administration, or trust  
16 agreements which the plan has made or proposes to make for the conduct of its business and  
17 affairs. Any proposed change or amendment to the foregoing shall also be filed with the  
18 commissioner within sixty days of its implementation.

19 (2) A list of names, permanent addresses, and official positions, if any, of the persons  
20 responsible for the formation of the self-insurer and for the organization, establishment,  
21 administration, and maintenance of the self-insurance plan.

22 (3) Biographical background information, on a form prescribed by the commissioner  
23 for each person who controls, directly or indirectly, ten percent or more of the self-insurer  
24 and for each director and officer of the self-insurer, **unless the self-insurer is an**  
25 **association-sponsored trust formed pursuant to Section 458.1 of this Subpart.**

26 (4) A plan of operation which clearly indicates the method of operation of the  
27 self-insurer including all of the following items:

28 (a) The types and limits of insurance to be provided.

29 (b) Pro forma financial statements for a period covering three years, which shall  
30 include a balance sheet, income statement, and cash flow statement.

31 (c) The amount and liquidity of its assets relative to the risks to be assumed by the  
32 self-insurer.

33 (d) The expertise, experience, and character of the persons or entities which will  
34 manage the self-insurer.

35 (e) A description of the self-insurer's stop-loss or excess program.

36 (f) A description of the self-insurer's underwriting policy, including the person or  
37 entity which will perform these functions.

38 (g) A description of the self-insurer's claims handling procedures, including the  
39 person or entity that will perform these functions.

40 (h) A description of the self-insurer's investment policy.

41 (i) The overall soundness of the plan of operation of the self-insurer.

42 (j) A description of the self-insurer's rate-making policies and procedures.

43 (5) A feasibility study or other analysis involving the self-insurance plan prepared  
44 by a qualified actuary.

1 (6) A copy of the application for coverage, contract, certificate, or policy of insurance  
2 or schedules of benefits to be issued or provided to persons covered under the self-insurance  
3 plan.

4 (7) A current financial statement verified by the applicant or its authorized  
5 representative showing the applicant's assets, liabilities, and sources of financial means and  
6 support. **For an association-sponsored trust formed pursuant to R.S. 22:458.1 of this**  
7 **Subpart, this shall include current financial statements dated not less than one year**  
8 **prior to the application for the association and, at the discretion of the Department, as**  
9 **many members as necessary to ensure compliance with the financial strength**  
10 **requirements of R.S. 22:458.1.**

11 (8) **Either of the following:**

12 (a) A copy of a fidelity bond which bond shall comply with all of the following:

13 (a*i*) Provides protection to the self-insurer against acts of fraud or dishonesty by  
14 persons servicing the self-insurer.

15 (b*ii*) Provides coverage for each person responsible for servicing the self-insurer.

16 (e*iii*) Is in an amount equal to the greater of ten percent of the premiums and  
17 contributions received by the self-insurer or ten percent of the benefits paid, during the  
18 preceding calendar year, with a minimum amount of ten thousand dollars and a maximum  
19 amount of five hundred thousand dollars.

20 (b) **If the self-insurer is an association-sponsored trust formed pursuant to R.S.**  
21 **22:458.1 a bond covering each third party administrator. Funds which employ their**  
22 **own administrators shall be required to submit proof of purchase of a bond, errors and**  
23 **omission insurance, directors and officers insurance, or other security approved by the**  
24 **department for the administration of the fund.**

25 (9) A copy of all advertising and marketing materials, including the marketing plan,  
26 **unless the self-insurer is an association-sponsored trust formed pursuant to R.S.**  
27 **22:458.1.**

28 (10) A statement by the self-insurer certifying that the self-insurance plan is in  
29 compliance with all applicable provisions of the Employee Retirement Income Security Act  
30 of 1974 (29 U.S.C. §1001 et seq.).

31 **C. All applications from an association-sponsored trust being formed pursuant**  
32 **to R.S. 22:458.1 shall be accompanied by the following items:**

33 (1) **Individual application of each member of the fund applying for membership**  
34 **in the fund on the effective date of the fund, and copies of their executed indemnity**  
35 **agreements.**

36 (2) **Proof that the fund shall have the minimum annual earned normal premium**  
37 **required by R.S. 22:458.1.**

38 (3) **The current annual report or financial statement of any insurance company**  
39 **providing excess or reinsurance coverage for the fund if such statement is not already**  
40 **on file with the department.**

41 (4) **The name, address, and telephone number of the attorney representing the**  
42 **fund; the name, address, and telephone number of the qualified actuary for the fund;**  
43 **and the name, address, and telephone number of the certified public accountant who**  
44 **will be auditing the annual financial statements of the fund, as well as evidence of**  
45 **appointment of each by the fund.**

46 (5) **The domicile address in this state where the books and records of the fund**  
47 **will be maintained, and the state from which the fund will be administered.**

48 (6) **Proof of advance payment to the fund by each initial member of the fund**  
49 **of not less than one-twelfth of that member's first year estimated annual earned normal**  
50 **premium.**

51 (7) **A copy of the fund's premium billing policy indicating whether the premium**  
52 **payments to the fund will be paid by members annually, monthly, quarterly, or any**  
53 **combination thereof.**

54 **€D.** Within ninety days of receipt of a completed application, the commissioner of  
55 insurance shall issue a certificate of authority to do business in the state to an applicant if the  
56 commissioner determines that the following conditions are met:

57 (1) The persons responsible for the administration of the self-insurance plan are  
58 competent, trustworthy, and of good reputation.

59 (2) The applicant is financially sound and responsible.

1 (3) The applicant has deposited cash or securities and has otherwise complied with  
2 all of the requirements of this Subpart."

3 AMENDMENT NO. 5

4 On page 2, line 14, change "**Fifty**" to "One hundred"

5 AMENDMENT NO. 6

6 On page 2, after line 28, insert:

7 "**C. Notwithstanding the provisions of Subsections A and B of this Section, a**  
8 **self-insurer who satisfies all the criteria of R.S. 22:458.1 shall be deemed in compliance**  
9 **with this Section.**

10 \* \* \*

11 AMENDMENT NO. 7

12 On page 3, line 4, after "shall" insert "**comply with one of the following:**"

13 AMENDMENT NO. 8

14 On page 3, line 5, delete "**during the first year of operations**"

15 AMENDMENT NO. 9

16 On page 3, line 6, after "not less than" delete "**one hundred and fifty thousand**"  
17 insert "one million"

18 AMENDMENT NO. 10

19 On page 3, delete lines 11 through 27 and insert:  
20 "**(b) Satisfy the requirements of R.S. 22:458.1.**"

21 AMENDMENT NO. 11

22 On page 4, at the end of line 12, insert "fifty" and at the end of line 13, delete the period and  
23 insert "**unless the trust is formed pursuant to R.S. 22:458.1.**"

24 AMENDMENT NO. 12

25 On page 4, delete line 16 and insert:  
26 "**§458.1. Association-sponsored self-insured trust**"

27 **A.(1) Any ten or more Louisiana employers who are not public entities, each**  
28 **of which has a positive net worth, is financially solvent, and is capable of assuming the**  
29 **obligations set forth under this Section, and who are all members of the same trade or**  
30 **professional association may agree to pool any liabilities to their employees relating to**  
31 **the provision of health care benefits for those employers and their employees via a trust**  
32 **established by the association. This arrangement shall not be an insurer, shall not be**  
33 **deemed to be insurance, and shall not be subject to the Louisiana Insurance Code. The**  
34 **member employers of the arrangement likewise shall not be insurers or be subject to**  
35 **the Louisiana Insurance Code.**

36 **(2) An agreement to pool liabilities under this Chapter shall be set forth in an**  
37 **indemnity agreement signed by the employer, association representative, and fund**  
38 **representative acknowledging and agreeing to the assumption of the liabilities as set**  
39 **forth in this Subpart.**

40 **(3) The arrangement shall not be a member insured of the Louisiana Insurance**  
41 **Guaranty Association, nor shall the Louisiana Insurance Guaranty Association be**  
42 **liable under any circumstances for any claims, or increments of any claims, made**  
43 **against the arrangement.**

1           **(4) The arrangement shall include the establishment of a trust fund by a trade**  
 2 **or professional association for its members, and the arrangement shall be known as a**  
 3 **group self-insurance fund for health care benefits and shall be governed by a board of**  
 4 **trustees.**

5           **(5) The association establishing the fund shall be responsible for any unpaid**  
 6 **claims liability of the fund. Members of the fund shall be in solido guarantors of**  
 7 **liabilities of the fund not satisfied by the association due to the association’s insolvency.**

8           **(6)(a) The arrangement shall be domiciled in the state of Louisiana.**

9           **(b) The arrangement shall be authorized to contract with such vendors,**  
 10 **including but not limited to administrators, agents and re-insurers, as may be**  
 11 **necessary to ensure appropriate provision of health care benefits for members and**  
 12 **their eligible employees. It shall not be required that said vendors be domiciled in the**  
 13 **state of Louisiana.**

14           **(c) All books, records, documents, accounts, and vouchers shall be kept in such**  
 15 **a manner that the arrangement's financial condition, affairs, and operations can be**  
 16 **ascertained and so that its financial statements filed with the commissioner of**  
 17 **insurance can be readily verified and its compliance with the law determined. Any or**  
 18 **all books, records, documents, original indemnity agreements, accounts, and vouchers**  
 19 **may be photographed or reproduced on film. Any photographs, microphotographs,**  
 20 **optical imaging, or film reproductions of any original books, records, documents,**  
 21 **original indemnity agreements, accounts, and vouchers shall for all purposes, including**  
 22 **but not limited to admission into evidence in any court or adjudicatory proceeding, be**  
 23 **considered the same as the originals thereof, and a transcript, exemplification, or**  
 24 **certified copy of any such photograph, microphotograph, optical imaging, or film**  
 25 **reproduction shall for all purposes be deemed to be a transcript, exemplification, or**  
 26 **certified original. Any original so reproduced may thereafter be disposed of or**  
 27 **destroyed, as provided for in Subparagraph (d) of this Paragraph, if provision is made**  
 28 **for preserving and examining the reproduction.**

29           **(d) Except as otherwise provided in Subparagraph (c) of this Paragraph,**  
 30 **original books, records, documents, accounts, and vouchers, or such reproductions**  
 31 **thereof, shall be preserved and kept in this state for the purpose of examination and**  
 32 **until the authority to destroy or otherwise dispose of the records is secured from the**  
 33 **commissioner of insurance. All original records, or certified reproductions thereof,**  
 34 **shall be maintained for the period commencing on the first day following the last**  
 35 **period examined by the commissioner of insurance through the subsequent**  
 36 **examination period, or three years, whichever is greater, except that any original, or**  
 37 **certified reproduction thereof, whereby the member agrees to or acknowledges such**  
 38 **member is an in solido guarantor of liabilities of the fund not satisfied by the**  
 39 **association shall be permanently maintained.**

40           **(7) Throughout the existence of the fund, at least one of the following conditions**  
 41 **shall be satisfied at any given time:**

42           **(a) The association and two or more members of the arrangement shall maintain**  
 43 **a minimum combined net worth of one million dollars and a ratio of current assets to**  
 44 **current liabilities of at least one-to-one.**

45           **(b) The balance of unencumbered reserves in the fund shall be equal to at least**  
 46 **thirty percent of the unpaid claims liability of the fund.**

47           **(8) The fund shall maintain contribution rates for participation under the**  
 48 **arrangement that satisfy either of the following requirements:**

49           **(a) Contribution rates shall equal or exceed the sum of projected claims liability**  
 50 **for the year, plus all projected costs of operation of the plan for the year, plus an**  
 51 **amount equal to any deficiency in the reserves of the plan for the prior year, minus an**  
 52 **amount equal to the reserves of the plan in excess of the minimum required level of**  
 53 **reserves.**

54           **(b) Contribution rates shall equal or exceed a funding level established by a**  
 55 **report prepared by an actuarial firm.**

56           **B. For the purposes of this Section, "association" means an active trade or**  
 57 **professional association which satisfies all of the following:**

58           **(1) Meets either of the following criteria:**

59           **(a) Is a tax exempt organization approved by the Internal Revenue Service**  
 60 **under the provisions of 26 United States Code Section 501.**

1 (b) Is a nonprofit corporation organized under Chapter 2 of Title 12 of the  
2 Louisiana Revised Statutes of 1950.

3 (2) Provides services to its membership so that the primary function of the  
4 trade or professional association is not the sponsorship, operation, or management of  
5 a fund, or related employee safety program, or other related activities. The association  
6 shall have, for a period of at least ten years prior to the date of application, satisfied all  
7 of the following requirements:

8 (a) Held regular meetings of the board on no less than an annual basis.

9 (b) Produced a newsletter, on no less than an annual basis, which was mailed,  
10 via United States mail or sent by electronic mail, to each member.

11 (3) Is chartered and domiciled in the state of Louisiana and has been in  
12 existence for a period of twenty-five years or more."

13