



2024 South Dakota Legislature

Senate Bill 207

Introduced by: **Senator Hoffman**

1 **An Act to increase oversight of pool arrangements.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 1-24-11 be AMENDED:**

4 **1-24-11.** For the purposes of §§ 1-24-11 to 1-24-17, inclusive, a pool
 5 arrangement is any joint power agreement, pool, consortium, or other arrangement or
 6 collection of public agencies, whether or not formed under or pursuant to chapter 1-24
 7 and whether or not a separate legal entity, by which one or more public agencies have
 8 provided for the payment of claims, liabilities, or other expenses or otherwise provided for
 9 or obtained coverage for property, personal injury, and workers compensation claims or
 10 group life, health, ~~or~~ accident coverage, general liability, public official and professional
 11 liability, or other coverage as authorized by the director of the Division of Insurance.

12 A pool arrangement may only obtain excess insurance or reinsurance with
 13 insurance companies approved for such business by the director of the Division of
 14 Insurance.

15 **Section 2. That chapter 1-24 be amended with a NEW SECTION:**

16 A pool arrangement must be approved by the director of the Division of Insurance.
 17 Before a pool arrangement may be authorized, the pool agent must provide to the
 18 director:

- 19 (1) A financial plan that includes the type of coverage offered by the pool, the
 20 deductible levels, and the maximum level of claims; the amount of cash reserves
 21 to be set aside for the payment of claims; and the disposition of a surplus;
 22 (2) A management plan that includes the governing authority and the governing
 23 charter or articles of incorporation; the process for the election of a board of
 24 directors; the management responsibility for member participation, assessments,
 25 and administration of the pool in the event of termination or insolvency; and

1 (3) Any other provision determined by the director to be necessary for the operation
2 of the pool.

3 **Section 3. That § 1-24-15 be AMENDED:**

4 **1-24-15.** Any public body or participating public agency may enter into
5 agreements or other arrangements for the investment of public moneys or other funds
6 with the authority under the provisions of § 1-16A-19 so long as the agreement or other
7 arrangement relates to a loan, lease or other financing which is authorized to be
8 undertaken by the authority under chapter 1-16A. A pool arrangement may only invest
9 its funds and accumulations in those investments prescribed in § 4-5-6.

10 **Section 4. That § 1-24-17 be AMENDED:**

11 **1-24-17.** No pool arrangement and no agreement or financing in connection
12 therewith may be considered insurance ~~nor may any such pool arrangement, agreement,~~
13 ~~or financing be considered to be~~ or an insurance company under the laws of South Dakota
14 ~~nor may any such pool arrangement, agreement, or financing be under the jurisdiction of~~
15 ~~the commissioner of insurance.~~

16 **Section 5. That § 1-24-17.1 be AMENDED:**

17 **1-24-17.1.** Each pool arrangement, as defined in § 1-24-11, shall have an annual
18 audit of its financial statements conducted in accordance with generally accepted
19 government auditing standards. ~~A copy of the audited financial statements shall be filed~~
20 ~~with the Department of Legislative Audit within twelve months of the close of the previous~~
21 ~~fiscal year for the pool arrangement. The department shall make audited financial~~
22 ~~statements filed pursuant to this section available to the public on the department's~~
23 ~~website~~ The audit must review the financial condition and business of the pool for the year
24 ending on the preceding December thirty-first. The audit must be filed with the director
25 of the Division of Insurance each year on or before March thirty-first and be available to
26 the public on the Department of Labor and Regulation's website.

27 The director shall inspect and examine the affairs of every government pool at least
28 biennially, and may inspect and examine a government pool at any time the director
29 deems necessary. The auditor-general may examine all financial records, related to funds
30 provided by the state or its political subdivisions, of any pool arrangement if deemed
31 necessary and in the public interest by the auditor-general.