

1 Department of Commerce

2

3 Adopted Rules Governing Political Subdivision Self-Insurance

4 Pools

5

6 Rules as Adopted

7

8 CHAPTER 2785

9 DEPARTMENT OF COMMERCE

10 POLITICAL SUBDIVISION SELF-INSURANCE POOLS

11 2785.0100 DEFINITIONS.

12 Subpart 1. Scope. For the purposes of parts 2785.0100 to
13 2785.1600, the terms defined in this part have the meanings
14 given them.

15 Subp. 2. Board. "Board" means a pool's board of trustees.

16 Subp. 3. Bylaws. "Bylaws" means the statements and
17 organizational documents adopted by a plan that prescribe its
18 purpose, government, and administration.

19 Subp. 4. Commissioner. "Commissioner" means the
20 commissioner of the Department of Commerce.

21 Subp. 5. Coverage. "Coverage" means the right of a
22 covered person or entity to benefits or indemnification provided
23 directly or indirectly by a pool, by virtue of the coverage
24 document.

25 Subp. 6. Coverage document. "Coverage document" means the
26 document specifying the characteristics and duration of coverage
27 provided through a pool. Characteristics of coverage include
28 the kind of loss or benefit that the pool will reimburse,
29 subject to specific exclusions, limitations, or deductibles.

30 Subp. 7. Days. "Days" means calendar days.

31 Subp. 8. Employee health benefit pool. "Employee health
32 benefit pool" means a pool that covers employee health benefits,
33 disability benefits, or both.

34 Subp. 9. Financial administrator. "Financial
35 administrator" means an entity employing persons trained and
36 experienced in money management and investments, and possessing

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1 no less than five years' experience as an organization in money
2 management and investments with demonstrated competence.

3 Subp. 10. Fund year. "Fund year" means a pool's 12-month
4 fiscal year.

5 Subp. 11. Member. "Member" means a political subdivision
6 or private employer member of a pool. Reference to actions of a
7 member include actions on behalf of the member's covered
8 employees or other covered persons.

9 Subp. 12. Political subdivision. "Political subdivision,"
10 in reference to employee health benefit pools, means the same as
11 defined in Minnesota Statutes, section 471.617, subdivision 2,
12 and in reference to all other pools means the same as defined in
13 Minnesota Statutes, section 471.98, subdivision 2.

14 Subp. 13. Pool. "Pool" means any self-insurance fund or
15 agreement for the reciprocal assumption of risk established by
16 or among two or more political subdivisions for coverage of
17 their respective risks, but also includes private employers for
18 the purpose of a public/private pool. Reference to actions of a
19 pool include actions by the pool's designated agents.

20 Subp. 14. Premium. "Premium" means the amount paid or to
21 be paid for coverage by members. Premium does not include
22 assessments or penalties.

23 Subp. 15. Public/private pool. "Public/private pool"
24 means a workers' compensation pool including as members a
25 political subdivision and one or more private employers.

26 Subp. 16. Runoff pool. "Runoff pool" means a pool that no
27 longer has authority to self-insure, but that continues to exist
28 for the purpose of paying claims, preparing reports, and
29 administering transactions associated with the period when the
30 pool provided coverage.

31 Subp. 17. Self-insure. "Self-insure" means to assume
32 primary liability or responsibility for certain risks or
33 benefits, rather than transferring liability or responsibility
34 to some other entity.

35 Subp. 18. Service company. "Service company" means an
36 entity licensed under Minnesota Statutes, section 60A.23,

1 subdivision 8, and rules adopted thereunder, as a self-insurance
2 plan administrator, or an entity named in Minnesota Statutes,
3 section 60A.23, subdivision 8, paragraph (1), clause (a) or (b).

4 Subp. 19. Sponsoring association. "Sponsoring association"
5 means a statewide nonprofit organization of political
6 subdivisions that sponsors or organizes a pool, and which has as
7 its primary purpose providing services to Minnesota political
8 subdivisions that are not related to insurance or self-insurance.

9 Subp. 20. Surplus. "Surplus" means a pool's total assets
10 minus total liabilities. Surplus includes paid-in capital and
11 retained earnings. The amount of a pool's surplus is determined
12 according to the instructions provided for a pool's financial
13 statements.

14 Subp. 21. Workers' compensation pool. "Workers'
15 compensation pool" means a pool that covers workers'
16 compensation liability, employer's liability, or both.

17 2785.0200 PURPOSE.

18 Parts 2785.0100 to 2785.1600 govern the formation,
19 operation, and dissolution of political subdivision
20 self-insurance pools. They are intended to ensure that the
21 financial integrity of these pools is maintained, and that they
22 are administered competently and equitably.

23 2785.0300 SCOPE.

24 The following are subject to the requirements of parts
25 2785.0100 to 2785.1600:

- 26 A. political subdivision self-insurance pools;
- 27 B. political subdivisions of Minnesota that form,
28 join, or leave a self-insurance pool;
- 29 C. private Minnesota employers that form, join, or
30 leave a self-insurance pool including a political subdivision;
31 and
- 32 D. service companies that provide services to a pool.

33 2785.0400 BYLAWS.

34 Subpart 1. Content. Bylaws may contain any provisions
35 that do not conflict with parts 2785.0100 to 2785.1600. Bylaws

1 must, at a minimum, contain the following provisions:

2 A. the pool's name, purpose, fiscal year, and initial
3 date of existence;

4 B. definitions of key terms;

5 C. a statement of the powers, duties, and
6 responsibilities assigned to the board, the service company, the
7 financial administrator, and reserved by the membership;

8 D. the number, term of office, and method of
9 selection and replacement of the members of the board;

10 E. the procedure for calling board meetings;

11 F. the method of periodic selection and review of the
12 service company and financial administrator;

13 G. the procedure for amending the bylaws;

14 H. the procedure for resolving disputes among
15 members, which must not include submitting disputes to the
16 commissioner;

17 I. the criteria for membership in the pool, including
18 standards of financial integrity and loss experience;

19 J. the procedure for admitting new members to the
20 pool;

21 K. the criteria for expelling members from the pool,
22 including nonpayment of premium;

23 L. the procedure for withdrawal and expulsion of
24 members from the pool, including the minimum required period of
25 membership;

26 M. a statement of the coverages the pool intends to
27 provide;

28 N. the procedure for adding and dropping a member's
29 participation in a particular coverage;

30 O. a schedule for premium payments by members and, if
31 applicable, their employees;

32 P. the procedure for changing premium rates;

33 Q. the procedure for levying and collecting an
34 assessment;

35 R. a statement of who may have access to pool funds
36 and for what purposes;

1 S. the procedure for distributing dividends, and the
2 eligibility of past members and past covered employees for
3 dividends; and

4 T. the procedure for distributing any assets
5 remaining upon the pool's dissolution.

6 Subp. 2. Adoption and changes. The bylaws must be adopted
7 in writing by all initial members. Authority to change the
8 bylaws must reside with the membership or the board, according
9 to the terms of the bylaws. Authority to change the bylaws may
10 not be delegated to a contractor or other outside party. The
11 pool must file bylaw changes with the commissioner not less than
12 30 days after adoption.

13 2785.0500 BOARD.

14 Subpart 1. Structure. A pool must have a board of
15 trustees consisting of at least three persons, who must be
16 officials or employees of the members or of the sponsoring
17 association, if any. No member may have more than one
18 representative on the board, unless the pool has only two
19 members, in which case each member must have at least one
20 representative on the board. The sponsoring association must
21 not have majority representation on the board. No trustee may
22 be an employee, agent, or representative of the pool's service
23 company, financial administrator, insurer, or other person or
24 entity under contract with the pool, except that a trustee may
25 be an employee, agent, or representative of the sponsoring
26 association. Trustees shall be elected by the membership, or
27 appointed by the sponsoring association. One trustee shall be
28 designated the chairperson. The board shall meet no less than
29 four times annually.

30 Subp. 2. Duties. The board is responsible for operation
31 of the pool. The board may delegate some or all of its
32 responsibilities to the chairperson or other trustees between
33 board meetings. All responsibilities of the pool not expressly
34 delegated by the board or parts 2785.0100 to 2785.1600 are the
35 responsibility of the board. The board shall, at a minimum,
36 have the following responsibilities:

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1 A. fiduciary responsibility for the pool's operation
2 and financial condition;

3 B. selection, supervision, and evaluation of the
4 service company, financial administrator, accountant, insurer,
5 and any other contractors;

6 C. on the basis of the pool's overall financial
7 condition, authorizing changes in premium, reserve, or
8 investment practices; and declaring assessments or dividends as
9 appropriate;

10 D. approving all reports concerning the pool's
11 operations and status to the commissioner;

12 E. monitoring delinquent premiums, loss experience,
13 and the financial condition of individual members; and
14 authorizing disciplinary action or expulsion as appropriate;

15 F. authorizing acceptance or rejection of
16 applications for membership;

17 G. as permitted by the bylaws, making or recommending
18 changes to the bylaws for the improvement of the pool's
19 operation and financial integrity; and

20 H. monitoring the pool's compliance with all statutes
21 and rules governing its operation.

22 2785.0600 APPLICATION.

23 Subpart 1. Initial application. Two or more political
24 subdivisions may apply to the commissioner for authority to form
25 a self-insurance pool. One or more private employers and a
26 political division may apply for authority to form a
27 public/private pool, if statutorily authorized. Applications
28 must be submitted on forms prescribed by the commissioner.
29 Applications must be submitted not later than 60 days prior to
30 the requested date for authority to self-insure. Applications
31 submitted without responses to certain questions, or with
32 responses that are inadequate, must be returned to the applicant
33 for resubmission. Applications not returned to the applicant
34 for resubmission within 14 days of receipt must be approved or
35 disapproved within 60 days of receipt.

36 Subp. 2. Prior existing pools. Pools in existence at the

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1 time parts 2785.0100 to 2785.1600 are effective must submit
2 their initial application for self-insurance authority no later
3 than ~~July~~ December 1, 1985.

4 Subp. 3. Renewal application. Existing plans may apply
5 for renewal of their self-insurance authority by so indicating
6 on their annual status report preceding expiration of their
7 current authority. Applications must be approved or disapproved
8 within 60 days of receipt of the status report.

9 Subp. 4. Merger. Two or more existing pools may apply to
10 merge, provided the merged pool assumes all financial and
11 regulatory obligations of the former pools. Merger applications
12 are subject to the same requirements as prospective new pools.

13 Subp. 5. Approval or disapproval. Upon approval of an
14 application, the commissioner shall issue an order authorizing
15 the proposed self-insurance pool. Initial authorization orders
16 for new pools shall be effective for 27 months after the initial
17 authorization date. Renewal authorization orders shall be for
18 two-year periods. Approval of applications for authority to
19 self-insure must be granted if the proposed pool conforms with:

- 20 A. all requirements of parts 2785.0100 to 2785.1600;
- 21 B. all applicable requirements of Minnesota insurance
- 22 statutes and rules, as described in part 2785.0100, subpart 2;
- 23 C. Minnesota Statutes, sections 72A.19 to 72A.32; and
- 24 D. all applicable requirements of other Minnesota
- 25 statutes and rules.

26 2785.0700 ENDING SELF-INSURANCE, RUNOFF PERIOD, AND PLAN
27 DISSOLUTION.

28 Subpart 1. Ending self-insurance authority. A pool may
29 decide to end its self-insurance authority and cease to provide
30 coverage effective at the end of a fund year. The pool must
31 notify the commissioner within 14 days of such a decision. A
32 pool may not elect to end its self-insurance authority less than
33 45 days prior to the end of the fund year in question.
34 Voluntary ending of self-insurance authority does not constitute
35 pool dissolution under subpart 4.

36 Subp. 2. Revocation of self-insurance authority. The

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1 commissioner shall, by order, revoke the authority of a pool to
2 self-insure upon no less than ten days' written notice if any of
3 the following events occur or conditions develop, and if the
4 commissioner judges them to be material:

5 A. failure of the pool to comply with parts 2785.0100
6 to 2785.1600, or with other applicable Minnesota statutes or
7 rules;

8 B. failure of the pool to comply with any lawful
9 order of the commissioner;

10 C. commission by the pool of an unfair or deceptive
11 practice as defined in Minnesota Statutes, sections 72A.17 to
12 72A.32, or in related rules; or

13 D. a deterioration of the pool's financial integrity
14 to the extent that its present or future ability to meet
15 obligations promptly and in full is or will be significantly
16 impaired.

17 Subp. 3. Runoff period. A pool shall continue to exist as
18 a runoff pool after its authority to self-insure has ended, for
19 the purpose of paying claims, preparing reports, and
20 administering transactions associated with the period when the
21 pool provided coverage. A runoff pool must continue to comply
22 with parts 2785.0100 to 2785.1600, and with other applicable
23 Minnesota statutes and rules. Authority to exist as a runoff
24 plan is open-ended, and does not require renewal of authority
25 under part 2785.0600, subpart 3.

26 Subp. 4. Dissolution. A pool, including a runoff pool,
27 that desires to cease existence shall apply to the commissioner
28 for authorization to dissolve. Applications must be approved or
29 disapproved within 60 days of receipt. Dissolution without
30 authorization is prohibited and void, and does not absolve a
31 pool or runoff pool from fulfilling its continuing obligations,
32 and does not absolve its members from assessments under part
33 2785.1400, subpart 3. The pool's assets at dissolution must be
34 distributed to the members and covered persons as provided in
35 the bylaws. Authorization to dissolve must be granted if either
36 of the following conditions are met:

1 A. the pool demonstrates that it has no outstanding
2 liabilities, including incurred but not reported liabilities; or

3 B. the pool has obtained an irrevocable commitment
4 from a licensed insurer that provides for payment of all
5 outstanding liabilities, and for providing all related services,
6 including payment of claims, preparation of reports, and
7 administration of transactions associated with the period when
8 the pool provided coverage.

9 2785.0800 ADMINISTRATION.

10 Subpart 1. Service company. A pool must contract with a
11 service company for services necessary to the pool's day-to-day
12 operations, except services and responsibilities reserved to the
13 members, the board, individual trustees, the financial
14 administrator, the accountant, or other contractors. The
15 service company must have expertise in and be licensed for the
16 coverages the pool provides. Subject to the oversight of the
17 board, the service company shall, directly or through
18 subcontractors, provide all services directly related to the
19 administration of coverage. These services include but are not
20 limited to:

- 21 A. accounting and recordkeeping;
- 22 B. billing and collection of premiums and assessments;
- 23 C. claims investigation, settlement, and reserving;
- 24 D. claims payment, including claims wholly or
25 partially subject to stop-loss insurance or member deductibles;
- 26 E. general administration;
- 27 F. loss control, safety programs, or both; and
- 28 G. underwriting.

29 Subp. 2. Financial administrator. A pool must contract
30 with a financial administrator for investment of the pool's
31 assets and other financial or accounting services. No staff
32 member of the financial administrator may be an owner, officer,
33 employee, or agent of the service company, or of a subcontractor
34 of the service company.

35 Subp. 3. Recordkeeping. A pool must maintain within
36 Minnesota all records necessary to verify the accuracy and

1 completeness of all reports submitted to the commissioner under
2 part 2785.1600. The commissioner may examine the pool's records
3 in order to ascertain the pool's compliance with parts 2785.0100
4 to 2785.1600, and with other applicable statutes and rules. All
5 records concerning claims, reserves, financial transactions, and
6 other matters necessary for the pool's operations are the pool's
7 property.

8 2785.0900 MEMBERSHIP.

9 Subpart 1. Availability. Pool membership is open only to
10 political subdivisions of Minnesota, except that private
11 employers may join a public/private pool. A pool may establish
12 other nondiscriminatory criteria for membership. Nothing in
13 parts 2785.0100 to 2785.1600 requires a pool to accept members
14 that do not meet the pool's underwriting standards.

15 Subp. 2. Joining. New members must be admitted according
16 to the standards and procedures specified in the bylaws.
17 Membership is not effective before the applicant has signed a
18 membership agreement affirming its commitment to comply with the
19 bylaws and parts 2785.0100 to 2785.1600, including joint and
20 several liability. The membership agreement must disclose that
21 under the rules governing the pool, the board of trustees, or
22 the Minnesota commissioner of commerce may order that an
23 assessment be levied against the members, if necessary to
24 maintain the pool's sound financial condition.

25 Subp. 3. Public/private pool membership. Only Minnesota
26 domiciled employers whose primary places of employment are
27 within 40 miles of a political subdivision pool member are
28 eligible for membership in a public/private pool. If all
29 political subdivisions elect to withdraw from a public/private
30 pool, the pool's authority to self-insure is terminated
31 simultaneously with the date of the last political division's
32 withdrawal. As a condition of a private employer's membership
33 in a public/private pool, the employer must furnish a surety
34 bond in a form prescribed by the commissioner. The pool shall
35 be the bond's obligee, conditioned on the employer's paying all
36 premiums, penalties, and assessments when due. The bond must be

1 maintained on file with the commissioner until the end of the
2 period of continuing liability, or until the pool terminates,
3 whichever occurs first. The period of continuing liability is
4 as defined in part 2785.1400, subpart 1. The bond must provide
5 a penalty amount no less than:

6 A. the greatest one-year premium paid by the member
7 for the coverage through the pool during the past three years;

8 B. if the member has not belonged to the pool for one
9 full fund year, the annual premium to be paid by the member for
10 the first year's coverage; or

11 C. if the member no longer belongs to the pool, the
12 greatest one-year premium paid by the past member during the
13 final three years in the pool.

14 Subp. 4. Leaving. The membership agreement must state the
15 procedures for leaving the pool. A member must notify the pool
16 of its desire to withdraw not less than 30 days before the date
17 upon which it desires to withdraw. If the board determines that
18 the withdrawal would cause the pool to be in violation of the
19 minimum annual premium requirement or would compromise the
20 pool's financial integrity, the pool must notify the
21 commissioner as required under part 2785.1100, subpart 2.

22 Withdrawal is prohibited and void unless:

23 A. the member has belonged to the pool continuously
24 for the period required by the bylaws, which shall provide for:

25 (1) a minimum of one complete fund year, in the
26 case of employee health benefit pools; or

27 (2) a minimum of three complete fund years, in
28 the case of all other pools; and

29 B. all outstanding premiums and assessments owed by
30 the member have been paid.

31 Subp. 5. Expulsion. No less often than annually a pool
32 must compare the status and experience of each member with the
33 criteria for expulsion in the bylaws. Expulsion is subject to
34 the procedures and requirements for voluntary withdrawal of a
35 member, except that:

36 A. a member may be expelled with outstanding premiums

1 or assessments owing; and

2 B. a member may be expelled notwithstanding that the
3 minimum term of membership has not been satisfied.

4 Subp. 6. Runoff pool membership. After revocation of a
5 pool's self-insurance authority or after a pool notifies the
6 commissioner in writing of its intent to end self-insurance
7 authority voluntarily, no member may join, leave, or be expelled
8 from the pool.

9 2785.1000 COVERAGE.

10 Subpart 1. Distinct pool types. Employee health benefit
11 pools and workers' compensation pools may provide only the
12 coverages specified in the definitions for that pool type.

13 Other pools may not provide any of the coverages permitted for
14 employee health benefit pools and workers' compensation pools.

15 Subp. 2. Coverage administration and related requirements.

16 Pools are subject to the requirements of Minnesota statutes and
17 rules applicable to insurance companies providing insurance in
18 Minnesota similar to the pool's coverage. These include
19 requirements contained in Minnesota Statutes, chapters 60A, 62A,
20 62E, 65A, 65B, 70A, 72A, 72C, 79, and 176, and rules adopted
21 under these chapters, concerning:

22 A. filing and requesting approval for coverage
23 documents and rates;

24 B. coverage document content and language;

25 C. mandated benefits, including coverage conversion
26 and continuation requirements;

27 D. coverage administration, including notices to
28 covered parties;

29 E. underwriting;

30 F. claim administration; and

31 G. other practices affecting coverage.

32 Subp. 3. Uniform underwriting. All coverages offered by a
33 pool must be available according to the same underwriting
34 standards to all members and, if applicable, to all members'
35 employees.

36 Subp. 4. Continuing responsibility. Notwithstanding

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1 cancellation or termination of coverage to a particular member,
2 ceasing to offer a particular coverage, or ending or revocation
3 of authority to self-insure, a pool retains indefinitely all
4 responsibilities to members and other covered persons associated
5 with the period while coverage was in force. This
6 responsibility ceases only after a pool dissolves under part
7 2785.0700, subpart 4.

8 2785.1100 PREMIUMS, CASH FLOW, AND DIVIDENDS.

9 Subpart 1. Minimum annual premium. All pools must have
10 and maintain an annual premium volume of no less than \$300,000.
11 A pool or prospective pool may apply to the commissioner for
12 reduction of the minimum annual premium requirement, stating the
13 amount of reduction requested and the supporting rationale and
14 data. The commissioner must approve the applications within 60
15 days after receipt if the pool has demonstrated that the lesser
16 premium volume would not compromise its financial integrity and
17 stability.

18 Subp. 2. Monitoring premium volume. A pool must monitor
19 its premium volume. If premium decreases to an annualized
20 volume of less than \$400,000, or less than 133 percent of the
21 amount approved pursuant to subpart 1, the pool must notify the
22 commissioner at monthly intervals of the then-current annualized
23 premium volume, until the annualized volume exceeds \$400,000.
24 "Annualized premium volume" means the gross premiums written for
25 the previous 12 months. If premium decreases to an annualized
26 volume of less than \$300,000, or a lesser amount if approved
27 pursuant to subpart 1, the pool must notify the commissioner:

28 A. of its intent to end its self-insurance authority;
29 or

30 B. of its proposal for restoring compliance with
31 subpart 1. If the proposal is unlikely, in the commissioner's
32 judgment, to restore compliance with subpart 1 within 90 days,
33 or if after 90 days the pool continues to be out of compliance,
34 the commissioner shall revoke the pool's self-insurance
35 authority.

36 Subp. 3. Surplus or stop-loss advancement. A pool may

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1 protect itself from cash flow difficulties by methods including
2 but not limited to the following:

3 A. establishing and maintaining a surplus consisting
4 of funds contributed by members and the pool's retained
5 earnings; or

6 B. obtaining language in the pool's stop-loss
7 insurance policy requiring the insurer to advance funds to the
8 pool if the policy limits have been or are likely to be
9 exceeded. The funds may be considered an advance against the
10 insurer's potential liability for the policy period.

11 Subp. 4. New pool deposit premium. As a condition for
12 authorization to self-insure a prospective pool must submit
13 evidence that an initial premium payment has been made. The
14 following requirements also apply to premium payments in a
15 pool's first year of operation:

16 A. For all pools except employee health benefit
17 pools, the initial payment must equal no less than 50 percent of
18 the initial members' first year premium. If the initial payment
19 is less than 100 percent of the initial members' first year
20 premium, the remainder of the initial members' first year
21 premium must be paid in three or more equal installments at
22 equal intervals throughout the year.

23 B. For employee health benefit pools, the initial
24 premium payment must be no less than 25 percent of the initial
25 members' first year premium. If the initial payment is less
26 than 100 percent of the initial members' first year premium, the
27 remainder of the initial members' first year premium must be
28 paid in six or more equal installments at equal intervals
29 throughout the year.

30 C. A prospective pool may apply to the commissioner
31 for reduction of the new pool deposit premium requirement,
32 stating the payment schedule requested and the supporting
33 rationale and data. The commissioner must approve the
34 applications within 60 days after receipt if the pool has
35 demonstrated that a less restrictive payment schedule would not
36 compromise its ability to pay large claims promptly during its

1 first year of operation. The commissioner must consider
2 arrangements the pool has made under subpart 3 in evaluating the
3 application.

4 Subp. 5. Premium payments. A pool may permit installment
5 payments if payment is always due before premium is to be
6 earned. A pool shall promptly take appropriate action to
7 collect premiums, assessments, or penalties that are past due.
8 Collection costs are the obligation of the delinquent member.

9 Subp. 6. Dividend procedures. A pool may declare and pay
10 a dividend or distribution from its surplus only if:

11 A. the dividend would not cause the pool's surplus to
12 be negative;

13 B. the pool does not have a stop-loss advancement
14 liability or other borrowed money; and

15 C. for workers' compensation pools, the dividend will
16 not be paid sooner than one year after it is declared, and at
17 the time of payment the conditions of items A and B are
18 fulfilled.

19 2785.1200 RESERVES.

20 A pool must establish reserves for all incurred losses,
21 both reported and unreported, and for unearned premiums. To the
22 extent that the amount of a loss is uncertain, the reserve must
23 be set conservatively. As the degree of uncertainty concerning
24 a loss is changed by new events or information, the amount of
25 the reserve must be changed appropriately. Accounting for
26 reserves must be as required by the financial statement forms
27 and instructions, under part 2785.1600, subpart 2.

28 2785.1300 STOP-LOSS INSURANCE.

29 Subpart 1. Purchase and change. A pool may purchase
30 stop-loss insurance for indemnification of a portion of its
31 losses. If the pool determines that a stop-loss insurance
32 policy will be terminated or modified causing a violation of
33 subpart 2, or otherwise compromising the pool's financial
34 integrity, the pool must notify the commissioner prior to the
35 termination or modification taking effect. The pool must

1 indicate what corrective action will be taken.

2 Subp. 2. Required stop-loss coverage. All pools except
 3 employee health benefit pools are restricted in the amount of
 4 potential liability they may retain on any one incident to ten
 5 percent of its annual premium volume during the most recent fund
 6 year, plus 20 percent of its surplus. The restriction for pools
 7 without a year's experience is based on the pool's estimated
 8 premium volume during the first full fund year. All liability
 9 in excess of the restricted amount must be assumed by a
 10 stop-loss insurer under contract with the pool and licensed to
 11 do business in Minnesota. For employee health benefit pools
 12 required to maintain individual excess stop-loss insurance under
 13 Minnesota Statutes, section 471.617, subdivision 3, the
 14 self-insured retention per person per year shall not exceed
 15 \$50,000.

16 Subp. 3. Return of liability. No liability transferred to
 17 an insurer under subpart 2 may, directly or indirectly, be
 18 returned to a pool or a member.

19 2785.1400 DEFICIT AND ASSESSMENTS.

20 Subpart 1. Joint and several liability. Each current
 21 member is jointly and severally liable for all liabilities and
 22 expenses of the pool. Each past member is jointly and severally
 23 liable for all liabilities and expenses of the pool during the
 24 period of continuing liability. After the period of continuing
 25 liability, past members are no longer jointly and severally
 26 liable for the pool's liabilities and expenses, except as
 27 provided in subpart 2. The period of continuing liability for
 28 past members varies according to the type of pool, as follows:

29 A. for employee health benefit pools, past members
 30 continue to be jointly and severally liable for three complete
 31 fund years after leaving the pool;

32 B. for workers' compensation pools, past members
 33 continue to be jointly and severally liable for ten complete
 34 fund years after leaving the pool; and

35 C. for all other pools, past members continue to be
 36 jointly and severally liable for five complete fund years after

1 leaving the pool.

2 Subp. 2. Runoff pool liability. If a pool's
3 self-insurance authority is ended under part 2785.0700, subpart
4 1 or 2, members and past members continue to be jointly and
5 severally liable for the pool's liabilities and expenses until
6 final pool dissolution, as follows:

7 A. all members at the time self-insurance authority
8 is ended continue to be jointly and severally liable until the
9 pool is dissolved; and

10 B. all past members that were jointly and severally
11 liable under the standards of subpart 1 at the time
12 self-insurance authority is ended continue to be jointly and
13 severally liable until the pool is dissolved.

14 Subp. 3. Correction of a deficit. If the board determines
15 that the pool's total liabilities exceed its total assets, the
16 board must restore a positive surplus within 90 days after the
17 determination. A deficit may be corrected using one or more of
18 the following types of assessments. A pool may, in a particular
19 case, elect to assess some but not all jointly and severally
20 liable members and past members. Methods of assessment must not
21 exclude liable members or past members arbitrarily, or impose
22 arbitrary amounts in relation to the amounts imposed on other
23 members and past members. The bylaws may state what methods of
24 assessment are preferred. The commissioner must order an
25 assessment to correct a deficit using the procedure described in
26 item A, if the board fails to do so when required.

27 A. All jointly and severally liable members and past
28 members may be assessed proportionately to their share of the
29 total premiums paid and owed during the assessment base period.
30 The assessment base period at the time of a pool's
31 self-insurance authority ending under part 2785.0700, subpart 1
32 or 2, shall remain the basis of assessments under this item
33 until final pool dissolution. The assessment base period
34 includes all completed quarters of the current fund year, and
35 includes the following periods depending on the type of pool:

36 (1) for employee health benefit pools, the most

1 recent three complete fund years;

2 (2) for workers' compensation pools, the most
3 recent ten complete fund years; and

4 (3) for all other pools, the most recent five
5 complete fund years.

6 B. Jointly and severally liable members and past
7 members may be assessed according to a formula stated in the
8 bylaws, whereby members and past members with worse than average
9 losses pay more than those with better loss experience.

10 C. Jointly and severally liable members and past
11 members may be assessed according to a formula stated in the
12 bylaws, whereby current members pay more than past members.

13 D. Jointly and severally liable members and past
14 members may be assessed accordingly to a formula stated in the
15 bylaws, whereby members belonging to the pool in poor loss years
16 pay more than members belonging to the pool in better loss years.

17 E. Jointly and severally liable members and past
18 members may be assessed according to any formula stated in the
19 bylaws, including combinations of items A to D, if the formula
20 is consistent with the requirements of this part.

21 Subp. 4. Assessment to increase surplus. The board may
22 assess current members in order to increase the surplus. The
23 assessment may be made without the existence of a deficit in
24 order to forestall a deficit, or otherwise to improve the pool's
25 financial strength. The assessment may be calculated using any
26 reasonable procedure, consistent with the pool's bylaws.

27 2785.1500 FINANCIAL INTEGRITY.

28 Subpart 1. Fidelity bond. All contractors and individuals
29 who handle pool funds or who will have authority to gain access
30 to pool funds, including board members, must be covered by a
31 fidelity bond. The bond must cover losses from dishonesty,
32 robbery, forgery or alteration, misplacement, or mysterious and
33 unexplainable disappearance. The amount of coverage for each
34 occurrence must be \$300,000 or more. The pool must purchase a
35 fidelity bond covering the required contractors and individuals,
36 or submit separate proof of coverage for all required

1 contractors and individuals not covered under the plan's bond.

2 Subp. 2. Integrity of assets. A pool's assets:

3 A. must not be commingled with the assets of any
4 member;

5 B. must not be loaned to anyone for any purpose or
6 used as security for a loan, except as permitted under subpart 5
7 for investments;

8 C. must be employed solely for the purposes stated in
9 the bylaws, and in compliance with parts 2785.0100 to 2785.1600
10 and related statutes; and

11 D. must not be considered the property or right of
12 any member or covered person, except:

13 (1) for benefits under the coverage documents;

14 (2) for dividends declared in accordance with
15 part 2785.1100, subpart 5; and

16 (3) for a portion of the assets remaining after
17 the plan's dissolution, in accordance with part 2785.0700,
18 subpart 4.

19 Subp. 3. Sources and uses of funds. A pool may expend
20 funds for payment of losses and expenses, and for other costs
21 customarily borne by insurers under conventional insurance
22 policies in Minnesota. Except as provided in part 2785.1100,
23 subpart 3, item B, a pool must not borrow money or issue debt
24 instruments. A pool may bring legal suits to collect delinquent
25 debts. A pool must not obtain funds through subrogation of the
26 rights of covered persons. A pool may receive funds only from:

27 A. its members as premiums, assessments, or penalties;

28 B. its insurers or indemnitors pursuant to insurance
29 or indemnification agreements;

30 C. dividends, interest, or the proceeds of sale of
31 investments;

32 D. refunds of excess payments;

33 E. coordination of benefits with other insurance or
34 group self-insurance coverages;

35 F. collection of money owed to the pool;

36 G. the special compensation fund under Minnesota

1 Statutes, chapter 176, for workers' compensation pools only; or
2 H. indemnification under Minnesota Statutes, section
3 176.181, subdivision 5, for workers' compensation pools only.
4 Public/private pools are eligible for indemnification under this
5 part only in the amount of the public members' liability to the
6 pool.

7 Subp. 4. Separate accounts. A pool may establish separate
8 accounts for the payment of claims or certain types of
9 expenses. These accounts must be used only by the service
10 company, its authorized subcontractors, or the financial
11 administrator, as appropriate to the account's purpose. The
12 amount in these special accounts must not exceed an amount
13 reasonably sufficient to pay the claims or expenses for which it
14 is established. All monetary and investment assets not in such
15 accounts must be under the control of the pool's financial
16 administrator.

17 Subp. 5. Investments. A pool's investments are subject to
18 Minnesota Statutes, section 475.66, as regards both permitted
19 types of investments, maturities, and depositories. In
20 addition, a pool must not invest in securities or debt of a
21 member, or a member's parent, subsidiary, or affiliate; or any
22 person or entity under contract with the pool. For this
23 purpose, the state of Minnesota is not considered a political
24 subdivision's parent or affiliate.

25 Subp. 6. Monitoring financial condition. The board must
26 regularly monitor the pool's revenues, expenses, and loss
27 development, and evaluate its current and expected financial
28 condition. The board must attempt in good faith to maintain or
29 restore the pool's sound financial condition, using any means at
30 its disposal. These means include but are not limited to
31 adjusting premium rates, underwriting standards, dividend rates,
32 expulsion standards, and other powers granted in parts 2785.0100
33 to 2785.1600 and the bylaws. If the commissioner judges that
34 the board's actions are inadequate to maintain or restore the
35 pool's sound financial condition, the commissioner shall, as
36 appropriate: order an increase in the premium rates; revoke the

1 pool's self-insurance authority; or order that an assessment be
2 levied against the members.

3 2785.1600 REPORTING.

4 Subpart 1. Financial statements. A pool must prepare
5 annual financial statements containing a balance sheet; a
6 statement of revenues, expenses, and surplus; a statement of
7 changes in financial position; and a schedule of investments.
8 The statements must be prepared on forms and according to
9 instructions prescribed by the commissioner. The financial
10 statements must be filed with the commissioner no later than
11 March 1 of each year, or if the pool's fund year is other than
12 the calendar year, no later than 60 days after the end of the
13 pool's fund year. The financial statements must be audited by
14 an independent certified public accountant, and the auditor's
15 report must be submitted no later than 180 days after the end of
16 the pool's fund year. For employee health benefit pools, the
17 first annual financial statement and every second annual
18 financial statement thereafter must be accompanied by a
19 statement from a qualified actuary concerning the balance sheet
20 items that are based on actuarial assumptions and methods. The
21 form of the actuary's statement and the scope of the actuarial
22 review must be according to instructions prescribed by the
23 commissioner.

24 Subp. 2. Quarterly reports. If the commissioner
25 determines that a pool's financial integrity is deteriorating,
26 to the extent that if then-current trends continue for two years
27 or less, the pool's ability to meet obligations promptly and in
28 full will be significantly impaired, the commissioner shall
29 require the pool to file quarterly reports with the commissioner
30 no later than 30 days after the end of the first, second, and
31 third quarters of each fund year. The commissioner shall remove
32 the requirement to file quarterly reports if the conditions
33 warranting the requirement no longer exist. Quarterly reports
34 must contain statements of the pool's:

35 A. current total cash on hand and on deposit, and
36 total investment;

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1 B. current total reserve for unearned and advance
2 premiums, and total reserve for outstanding losses reported and
3 unreported;

4 C. dividends declared and dividends paid during the
5 quarter;

6 D. gross premiums written during the quarter;

7 E. losses paid during the quarter;

8 F. current total members; and

9 G. any other matters the commissioner requests that
10 the board address.

11 Subp. 3. Extraordinary audits. Upon sufficient cause, the
12 commissioner shall require a pool to investigate the accuracy of
13 one or more entries on its financial statements or quarterly
14 reports, and to report its findings. If necessary for the
15 investigation's purposes, the commissioner shall require a pool
16 to hire a qualified actuary, claims specialist, auditor, or
17 other specialist as appropriate to the type of entry being
18 investigated. If warranted by the investigation's findings, the
19 commissioner shall require changes in the pool's reserving,
20 accounting, or recordkeeping practices. These extraordinary
21 audits are in addition to the commissioner's rights to examine
22 self-insurance pools directly, as applicable to insurance
23 companies under Minnesota Statutes, sections 60A.03,
24 subdivisions 3, 5, and 6, and 60A.031. Sufficient cause
25 includes:

26 A. losses that appear significantly different than
27 losses experienced by other self-insurance pools or insurance
28 companies for similar coverage;

29 B. unusual changes in the amount of entries from
30 period to period that are not sufficiently explained by the
31 financial statements or footnotes; or

32 C. other indications that a pool's financial
33 statements may not accurately reflect the pool's status and
34 transactions.

35 Subp. 4. Annual status report. No later than 60 days
36 after the end of a pool's fund year, a pool must file with the

1 commissioner a statement describing any changes that have
2 occurred in the information filed with its initial application
3 for authority to self-insure, or with the pool's most recent
4 status report. The status report must be filed in a form and
5 according to instructions prescribed by the commissioner.

6 Subp. 5. Penalty. The financial statements and status
7 report required under subparts 1 and 4 are considered together
8 to be a pool's annual statement. This filing and other filings
9 required by parts 2785.0100 to 2785.1600 and related statutes
10 are subject to Minnesota Statutes, section 72A.061, as
11 applicable to licensed insurance companies for comparable
12 filings.