

AMENDED IN ASSEMBLY JUNE 26, 2014

AMENDED IN SENATE APRIL 22, 2014

SENATE BILL

No. 1011

Introduced by Senator Monning

February 13, 2014

An act to amend Section 5005.1 of the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1011, as amended, Monning. Nonprofit corporations: self-insurance.

The Nonprofit Corporation Law authorizes certain nonprofit corporations that are organized chiefly to provide *or fund* health or human services, other than hospitals, to establish an insurance pool to self-insure against various risks, including, among others, tort liability and any loss arising from physical damage to motor vehicles owned or operated by the nonprofit corporation. The pooling arrangement is not considered insurance nor is it subject to regulation under the insurance laws of this state.

This bill would extend these provisions to authorize the establishment of an insurance pool to self-insure against the loss or damage to property of every kind, including, but not limited to, losses and expenses related to the loss of property. *The bill would require that the pooling arrangement be organized as a nonprofit public benefit corporation.* The bill would require that all corporations participating in a pooling arrangement established under these provisions be given written notice *by the pooling arrangement corporation* that the pool is not regulated by the Insurance Commissioner and that the state insurance insolvency guaranty funds are not available to safeguard its risk.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5005.1 of the Corporations Code is
2 amended to read:
3 5005.1. (a) Except for a liability that may be insured against
4 pursuant to Division 4 (commencing with Section 3200) of the
5 Labor Code, an authorized corporation may do any of the
6 following:
7 (1) Insure itself against all or any part of any tort liability.
8 (2) Insure any employee of the corporation against all or any
9 part of his or her liability for injury resulting from an act or
10 omission in the scope of employment.
11 (3) Insure any board member, officer, or volunteer of the
12 corporation against any liability that may arise from any act or
13 omission in the scope of participation with the corporation.
14 (4) Insure itself against any loss arising from physical damage
15 to motor vehicles owned or operated by the corporation.
16 (5) Insure itself against the loss or damage to property of every
17 kind, including, but not limited to, losses and expenses related to
18 the loss of property.
19 (b) (1) The insurance authorized pursuant to this section shall
20 only be available to an authorized corporation where that
21 corporation has joined with two or more other authorized
22 corporations in an arrangement providing for the pooling of
23 self-insured claims or losses. The pooling arrangement *shall be*
24 *organized as a nonprofit public benefit corporation pursuant to*
25 *Part 2 (commencing with Section 5110) and shall not be considered*
26 *insurance nor be subject to regulation under the Insurance Code.*
27 (2) All corporations participating in a pooling arrangement
28 established pursuant to this section shall be given written notice
29 *by the pooling arrangement corporation* that the pool is not
30 regulated by the Insurance Commissioner and that the state
31 insurance insolvency guaranty funds are not available to safeguard
32 its risk.
33 (c) This section does not authorize a corporation organized
34 pursuant to this division to pay for, or to insure, contract, or provide

1 for payment for, any part of a claim or judgment against an
2 employee of the corporation for punitive or exemplary damages.

3 (d) Any insurance pool established pursuant to this section shall
4 have initial pooled resources of not less than two hundred fifty
5 thousand dollars (\$250,000).

6 (e) All participating corporations in any pool established
7 pursuant to this section are required to agree to pay premiums or
8 make other mandatory financial contributions or commitments
9 necessary to ensure a financially sound risk pool.

10 (f) For the purpose of this section, an authorized “corporation”
11 means any corporation that meets all of the following criteria:

12 (1) Is organized chiefly to provide or fund health or human
13 services, but does not include a hospital.

14 (2) Is exempt from federal income taxation as an organization
15 described in Section 501(c)(3) of the United States Internal
16 Revenue Code.

O