

**SENATE BILL No. 338**

By Committee on Financial Institutions and Insurance

1-10

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1 AN ACT concerning insurance; relating to group-funded liability and  
2 group-funded workers compensation pools; changing certain reporting  
3 requirements; amending K.S.A. 12-2620, 44-584 and 44-590 and  
4 repealing the existing sections.  
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 12-2620 is hereby amended to read as follows: 12-  
8 2620. (a) All certificates granted hereunder shall be perpetual unless  
9 sooner suspended or revoked by the commissioner or the attorney general.

10 (b) Whenever the commissioner shall deem it necessary the  
11 commissioner may make, or direct to be made, an examination of the  
12 affairs and the financial condition of any pool. Each pool shall submit a  
13 certified independent audited financial statement ~~no~~ not later than ~~150~~ 180  
14 days after the end of the fiscal year. The financial statement shall include  
15 outstanding reserves for claims and for claims incurred but not reported.  
16 Each pool shall file reports as to income, expenses and loss data at such  
17 times and in such manner as the commissioner shall require. Any pool  
18 ~~which~~ *that* does not use rates developed by an approved rating  
19 organization shall file with the commissioner an actuarial certification that  
20 such rates are actuarially sound. Whenever it appears to the commissioner  
21 from such examination or other satisfactory evidence that the ability to pay  
22 current and future claims of any such pool is impaired, or that it is doing  
23 business in violation of any of the laws of this state, or that its affairs are in  
24 an unsound condition so as to endanger its ability to pay or cause to be  
25 paid claims in the amount, manner and time due, the commissioner shall,  
26 before filing such report or making the same public, grant such pool upon  
27 reasonable notice a hearing, and, if on such hearing the report be  
28 confirmed, the commissioner may require any of the actions allowed under  
29 K.S.A. 40-222b, and amendments thereto, or suspend the certificate of  
30 authority for such pool until its ability to pay current and future claims  
31 shall have been fully restored and the laws of the state fully complied with.  
32 The commissioner may, if there is an unreasonable delay in restoring the  
33 ability to pay claims of such pool and in complying with the law or if  
34 rehabilitation or corrective action taken under K.S.A. 40-222b, and  
35 amendments thereto, is unsuccessful, revoke the certificate of authority of  
36 such pool to do business in this state. Upon revoking any such certificate

1 the commissioner shall communicate the fact to the attorney general,  
2 whose duty it shall be to commence and prosecute an action in the proper  
3 court to dissolve such pool or to enjoin the same from doing or transacting  
4 business in this state. The commissioner of insurance may call a hearing  
5 under K.S.A. 40-222b, and amendments thereto, and the provisions thereof  
6 shall apply to group-funded pools.

7 (c) On an annual basis, or within 30 days of any change thereto, each  
8 pool shall supply to the commissioner the name and qualifications of the  
9 designated administrator of the pools and the terms of the specific and  
10 aggregate excess insurance contracts of the pool.

11 Sec. 2. K.S.A. 44-584 is hereby amended to read as follows: 44-584.

12 (a) The application for a new certificate shall be signed by the trustees of  
13 the trust fund created by the pool. Any application for a renewal of an  
14 existing certificate shall meet at least the standards established in K.S.A.  
15 44-582(a)(6) through (a)(14), and amendments thereto. After evaluating  
16 the application the commissioner shall notify the applicant that the plan  
17 submitted is approved or conversely, if the plan submitted is inadequate,  
18 the commissioner shall then fully explain to the applicant what additional  
19 requirements must be met. If the application is denied, the applicant shall  
20 have 15 days to make an application for hearing by the commissioner after  
21 service of the denial notice. The hearing shall be conducted in accordance  
22 with the provisions of the Kansas administrative procedure act.

23 (b) An approved certificate of authority shall remain in full force and  
24 effect until such certificate is suspended or revoked by the commissioner.  
25 An existing pool operating under an approved certificate of authority must  
26 file with the commissioner, within 120 days following the close of the  
27 pool's fiscal year, a current financial statement on a form approved by the  
28 commissioner showing the financial ability of the pool to meet its  
29 obligations under the worker compensation act and confirmation of  
30 specific and aggregate excess insurance as required by law for the pool. If  
31 an existing pool's certificate of authority is suspended or revoked, such  
32 pool shall have the same rights to a hearing by the commissioner as for  
33 applicants for new certificates of authority as set forth in subsection (a).

34 (c) Whenever the commissioner shall deem it necessary the  
35 commissioner may make, or direct to be made, an examination of the  
36 affairs and financial condition of any pool. Each pool shall submit a  
37 certified independent audited financial statement ~~no~~ *not* later than ~~150~~ *180*  
38 days after the end of the pool's fiscal year. The financial statement shall  
39 include outstanding reserves for claims and for claims incurred but not  
40 reported. Each pool shall file payroll records, accident experience and  
41 compensation reports and such other reports and statements at such times  
42 and in such manner as the commissioner shall require. Whenever it  
43 appears to the commissioner from such examination or other satisfactory

1 evidence that the solvency of any such pool is impaired, or that it is doing  
2 business in violation of any of the laws of this state, or that its affairs are in  
3 an unsound condition so as to endanger its ability to pay or cause to be  
4 paid the compensation in the amount, manner and time due as provided for  
5 in the Kansas workers compensation act, the commissioner shall, before  
6 filing such report or making the same public, grant such pool upon  
7 reasonable notice a hearing in accordance with the provisions of the  
8 Kansas administrative procedure act, and, if on such hearing the report be  
9 confirmed, the commissioner shall suspend the certificate of authority for  
10 such pool until its solvency shall have been fully restored and the laws of  
11 the state fully complied with. The commissioner may, if there is an  
12 unreasonable delay in restoring the solvency of such pool and in  
13 complying with the law, revoke the certificate of authority of such pool to  
14 do business in this state. Upon revoking any such certificate the  
15 commissioner shall communicate the fact to the attorney general, whose  
16 duty it shall be to commence and prosecute an action in the proper court to  
17 dissolve such pool or to enjoin the same from doing or transacting  
18 business in this state. The commissioner of insurance may call a hearing  
19 under K.S.A. 40-222b, and amendments thereto, and the provisions shall  
20 apply to group workers compensation pools.

21 Sec. 3. K.S.A. 44-590 is hereby amended to read as follows: 44-590.

22 (a) After the inception date of the group-funded workers' compensation  
23 pool, prospective new members of the pool shall submit an application for  
24 membership to the board of trustees or its administrator. The trustees may  
25 approve the application for membership pursuant to the bylaws of the  
26 pool. The application for membership and approval shall then be filed with  
27 the commissioner. Membership takes effect after approval.

28 (b) Individual members may elect to terminate their participation in a  
29 pool or be subject to cancellation by the pool pursuant to the bylaws of the  
30 pool. On termination or cancellation of a member, the pool shall ~~notify the~~  
31 ~~commissioner within 10 days and shall~~ maintain coverage of each  
32 cancelled or terminating member for 30 days ~~after notice to the~~  
33 ~~commissioner~~ or until ~~the commissioner~~ *such cancelled or terminating*  
34 *member* gives notice that the cancelled or terminating member has  
35 procured workers' compensation and employer's liability insurance,  
36 whichever occurs first.

37 Sec. 4. K.S.A. 12-2620, 44-584 and 44-590 are hereby repealed.

38 Sec. 5. This act shall take effect and be in force from and after its  
39 publication in the statute book.