

1 SENATE BILL 115

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Bill Tallman

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10 AN ACT

11 RELATING TO PUBLIC LIABILITY; AMENDING SECTION 15-7-3 NMSA 1978
12 (BEING LAWS 1978, CHAPTER 166, SECTION 8, AS AMENDED);
13 ESTABLISHING COVERAGE LIMITS ON INSURANCE COVERAGE OFFERED BY
14 THE RISK MANAGEMENT DIVISION OF THE GENERAL SERVICES
15 DEPARTMENT; REQUIRING THE APPROVAL OF THE SECRETARY OF FINANCE
16 AND ADMINISTRATION FOR SETTLEMENTS OF CLAIMS OVER SPECIFIED
17 AMOUNTS; PROVIDING FOR NOTIFICATION TO THE LEGISLATIVE FINANCE
18 COMMITTEE OF APPROVALS.

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20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. Section 15-7-3 NMSA 1978 (being Laws 1978,
22 Chapter 166, Section 8, as amended) is amended to read:

23 "15-7-3. ADDITIONAL POWERS AND DUTIES OF THE RISK
24 MANAGEMENT DIVISION.--

25 A. The risk management division of the general

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1 services department may:

2 (1) enter into contracts;

3 (2) procure insurance, reinsurance or employee
4 group benefits; provided that:

5 (a) coverage shall not exceed: 1) five
6 hundred thousand dollars (\$500,000) for insurance for property
7 damages; 2) one million fifty thousand dollars (\$1,050,000) for
8 general liability insurance; and 3) the limits established in
9 Section 41-4A-6 NMSA 1978 for civil rights liability;

10 (b) any proposal or contract for the
11 procurement of any group health care benefits shall be subject
12 to the provisions of the Health Care Purchasing Act; and
13 ~~[provided further that]~~

14 (c) reinsurance or excess coverage
15 insurance may be placed by private negotiation, notwithstanding
16 the provisions of the Procurement Code, if the insurance or
17 reinsurance has a restricted number of interested carriers, the
18 board determines that the coverage is in the interest of the
19 state and cannot otherwise be procured for a reasonable cost
20 and the director seeks the advice and review of the board in
21 the placement and in designing private negotiation procedures;

22 (3) in the manner prescribed by Subsection E
23 of Section 9-17-5 NMSA 1978, after a notice and a public
24 hearing, prescribe by rule reasonable and objective
25 underwriting and safety standards for governmental entities and

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1 reasonable standards for municipal self-insurance pooling
2 agreements covering liability under the Tort Claims Act and
3 adopt such other regulations as may be deemed necessary;

4 (4) compromise, adjust, settle and pay claims;
5 provided that no settlement of a claim shall be made unless the
6 settlement has been approved in writing by the secretary of
7 finance and administration for:

8 (a) a payment from the public property
9 reserve fund in excess of two hundred fifty thousand dollars
10 (\$250,000); or

11 (b) a payment from the public liability
12 fund in excess of five hundred thousand dollars (\$500,000);

13 (5) pay expenses and costs;

14 (6) in the manner prescribed by Subsection E
15 of Section 9-17-5 NMSA 1978, prescribe by rule the rating
16 bases, assessments, penalties and risks to be covered by the
17 public liability fund, the workers' compensation retention fund
18 and the public property reserve fund and the extent such risks
19 are to be covered;

20 (7) issue certificates of coverage in
21 accordance with Paragraph (6) of this subsection:

22 (a) to any governmental entity for any
23 tort liability risk covered by the public liability fund;

24 (b) to any governmental entity for any
25 personal injury liability risk or for the defense of any errors

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1 or act or omission or neglect or breach of duty, including the
2 risks set forth in Paragraph (2) of Subsection B and Paragraph
3 (2) of Subsection D of Section 41-4-4 NMSA 1978; and

4 (c) to any governmental entity for any
5 part of risk covered by the workers' compensation retention
6 fund, the surety bond fund or the public property reserve fund;

7 (8) study the risks of all governmental
8 entities;

9 (9) initiate the establishment of safety
10 programs and adopt rules to carry out such programs in the
11 manner prescribed by Subsection E of Section 9-17-5 NMSA 1978;

12 (10) hire a safety program director who shall
13 coordinate all safety programs of all state agencies;

14 (11) consult with and advise local public
15 bodies on their risk management problems; and

16 (12) employ full-time legal counsel who shall
17 be under the exclusive control and supervision of the director
18 and the secretary of general services.

19 B. The risk management division of the general
20 services department shall provide liability coverage for the
21 following risks:

22 (1) a claim made pursuant to the provisions of
23 42 USC Section 1983 against a nonprofit corporation, members of
24 its board of directors or its employees when the claim is based
25 upon action taken pursuant to the provisions of a contract

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1 between the corporation and the department of health under
2 which the corporation provides developmental or intellectual
3 disability services to clients of the department and the claim
4 is made by or on behalf of a client; and

5 (2) a claim made pursuant to the provisions of
6 42 USC Section 1983 against a nonprofit corporation, members of
7 its board of directors or its employees when the corporation
8 operates a facility licensed by the department of health as an
9 intermediate care facility for individuals with developmental
10 or intellectual disabilities and the claim is based upon action
11 taken pursuant to the provisions of the license and is made by
12 or on behalf of a resident of the licensed facility.

13 C. Within thirty days of the receipt of an approval
14 from the secretary of finance and administration for payment of
15 a settlement pursuant to Paragraph (4) of Subsection A of this
16 section, the director shall notify the legislative finance
17 committee of the settlement approval.

18 [~~C.~~] D. The director shall report findings and
19 recommendations, if any, for the consideration of each
20 legislature. The report shall include the amount and name of
21 any person receiving payment from the public liability fund of
22 any claim paid during the previous fiscal year exceeding one
23 thousand dollars (\$1,000). The report shall be made available
24 to the legislature on or before December 15 preceding each
25 regular legislative session."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.