

Assisting Schools and Districts with Rising Property/Liability Insurance

Public schools have been facing a massive increase in insurance costs. [Education Week](#) notes that the phenomenon is nationwide, with the Davis Public Schools district in Oklahoma as an example. Since the 2019-20 school year, the cost of liability insurance for the district has increased more than threefold from about \$68 per student in 2019-20 to \$167 per student in 2022-23, and will be \$290 per student this year.

Premiums are increasing not just because of natural disasters but also for increased liability for issues such as sexual abuse lawsuits and incidents of cybercrime. Sometimes premium increases reflect changes in the insurance industry itself; many providers are leaving the market, reducing competition and making it more difficult to keep premiums down.

This memo provides information on recent state legislative actions and, where applicable, regulatory actions as states often address insurance changes through regulation.

Arkansas

According to an Arkansas Senate [press release](#), Arkansas school districts will see an average 130% increase in insurance premiums in 2023-24. Part of the increase is attributed to the cost of repairing damages caused by severe weather conditions such as floods, tornadoes and sudden freezes.

On July 12, 2023, Governor Sarah Huckabee Sanders announced that Arkansas would help school districts cover the cost of rising insurance premiums by authorizing the state to cover 30% of the cost increase using money from the state's restricted reserve account. As a result, the Arkansas Legislative Council's Performance Evaluation and Expenditure Review Subcommittee [approved](#) transferring \$10.8 million of those funds [as requested](#) by the state's insurance commissioner.

Funds are to be split three ways — \$6.3 million for the 170 districts in the insurance program managed by the Arkansas School Boards Association, \$4.5 million for the 68 districts in the Arkansas Public School Insurance Trust managed by the Arkansas Insurance Department, and nearly \$118,000 for the Bentonville School District which purchases insurance directly from the open market.

On September 6, the Executive Subcommittee of the Arkansas Legislative Council selected a consultant to conduct a study of rising property insurance premiums for public school districts and higher education institutions. Based on the Arkansas Bureau of Legislative Research's draft Request for Proposal, the consultant will be responsible for "developing and implementing a strategic plan and legitimate framework for the provision of reasonably priced property insurance coverage options to K-12 school districts in the State of Arkansas on an actuarially sound basis while providing for oversight of the plans through a governing structure and legislative oversight."

The consultant will provide information to assist the Subcommittee in compiling its final report to the Legislative Council prior to the beginning of the Arkansas State Legislature's 2024 legislative session. The Subcommittee will provide a final report, including proposed legislation, to the Legislative Council by March 15, 2024.

South Carolina Insurance Reserve Fund

The Insurance Reserve Fund offers several types of liability insurance to school districts, including school bus, general tort, medical professional, and automobile which provides the insured with protection against covered claims resulting from injuries and damage to other people and property. The Fund's school bus liability policy provides no-fault accident insurance coverage for lawful occupants of school district owned vehicles and contract carriers. No fault coverage provides limited benefits without regard to fault or negligence.

Legislation in SREB States

West Virginia Senate Bill 560 (2023)

During the 2023 legislative session Senate Bill 560 was introduced to limit recovery on claims against schools for abuse by addressing the cost of liability insurance and the cost of defending liability claims. The legislation did not pass out of the Senate.

The bill would have required the state Board of Risk and Insurance Management to report a summary of its proceedings including a detailed and itemized statement and summary of all state insurance procured by the Board during the preceding fiscal year to the Governor, Legislative Auditor and Budget Director each year.

It would also have required the Board to provide appropriate liability insurance for all county boards of education, teachers, and administrative and other staff. Insurance provided by the Board would cover claims, demands, actions, suits, or judgments by reason of alleged negligence or other acts resulting in bodily injury or property damage to any person for school personnel acting within the scope of their office, position or employment, under the direction of the county board of education, or in an official capacity as a county superintendent or as a school board member. The provided insurance coverage would be in an amount determined by the Board, with a minimum of \$1 million.

North Carolina Senate Bill 496 (2021-2022)

Senate Bill 496 modified North Carolina's insurance laws, including requiring public educational entities to report annually to the Commissioner of Insurance certain insured property information. Under previous law, local school administrative units and community colleges were required to insure buildings against property and, if located in a flood zone, flood damage.

To accommodate this requirement, effective July 1, 2022, the legislation authorized the Commissioner to operate a system of insurance available for public education property. Public education entities are required to provide to the Commissioner a list of all insurable buildings, the equipment and contents of those buildings and their insurable values by October 1 of each year. They also are required to provide copies of any insurance policies purchased from authorized insurance companies. If a policy is cancelled, terminated, or changed for any reason, the entity must notify the Commissioner within five days.

North Carolina House Bill 922 (2019-2020)

House Bill 922 authorized the transfer and consolidation of the School Insurance Fund Section of the Department of Public Instruction (which oversees the management and operation of a system of insurance for public education property) to the Department of Insurance as well as the transfer of the Public School Insurance Fund to DOI. Local boards of education, regional

schools, and community colleges also were required to purchase flood insurance for all educational property.

The legislation requires the board of each public education entity to insure each building owned by the entity for at least 80% of the current insurable value against loss by an insurable hazard. This requirement includes flood damage to buildings and their contents (voluntary under previous law) when that property is located or becomes located in an area identified on the latest Flood Insurance Rate Map produced by the Federal Emergency Management Agency as an area that has a 1% chance of being inundated by a flood event in any given year.

Possible Action in the Future

Legislative staff in Louisiana believe that the Louisiana State Legislature has not acted to assist schools and districts with insurance costs because of a constitutional article that prohibits certain local and special laws. According to La. Const. Art. III. §12 (A):

except as otherwise provided in the constitution, the legislature shall not pass a local or special law regulating the management of parish or city public schools, the building or repairing of parish or city schoolhouses, and the raising of money for such purposes.

However, staff anticipated that in the upcoming legislative session the new gubernatorial administration in Louisiana will call a special legislative session to address the insurance crisis in the state.

Also, state insurance commissioners discussed the issue of public school insurance, including high losses and rising rates, at the National Association of State Insurance Commissioners 2023 National Summer Meeting, and intend to discuss the issue in more detail during future meetings.

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