

**As Passed by the House**

**126th General Assembly  
Regular Session  
2005-2006**

**Sub. H. B. No. 46**

**Representatives Schaffer, McGregor, J., Fessler, Taylor, Reidelbach, Martin,  
Aslanides, Blessing, Brinkman, Buehrer, Cassell, Chandler, Collier, Combs,  
Core, Dolan, Domenick, Evans, C., Evans, D., Faber, Flowers, Gilb, Hagan,  
Hughes, Law, Patton, T., Raussen, Sayre, Schneider, Seitz, Setzer, Smith, G.,  
Trakas, Wagoner, White, Willamowski, Wolpert, Yuko, Coley**

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**A B I L L**

To amend section 9.833 and to enact section 305.172 1  
of the Revised Code to permit political 2  
subdivisions to offer and make contributions to 3  
health savings accounts for employees. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 9.833 be amended and section 305.172 5  
of the Revised Code be enacted to read as follows: 6

**Sec. 9.833.** (A) As used in this section, "political 7  
subdivision" means a municipal corporation, township, county, 8  
school district, or other body corporate and politic responsible 9  
for governmental activities in a geographic area smaller than that 10  
of the state. 11

(B) Political subdivisions that provide health care benefits 12  
for their officers or employees may do any of the following: 13

(1) Establish and maintain an individual self-insurance 14  
program with public moneys to provide authorized health care 15

benefits, including but not limited to, health care, prescription  
drugs, dental care, and vision care, in accordance with division  
(C) of this section;

(2) Establish and maintain a health savings account program  
whereby employees or officers may establish and maintain health  
savings accounts in accordance with section 223 of the Internal  
Revenue Code. Public moneys may be used to subsidize premiums for  
federally qualified high deductible health plans that are linked  
to health savings accounts or to make contributions to health  
savings accounts.

(3) After establishing an individual self-insurance program,  
agree with other political subdivisions that have established  
individual self-insurance programs for health care benefits, that  
their programs will be jointly administered in a manner specified  
in the agreement;

~~(3)~~(4) Pursuant to a written agreement and in accordance with  
division (C) of this section, join in any combination with other  
political subdivisions to establish and maintain a joint  
self-insurance program to provide health care benefits;

~~(4)~~(5) Pursuant to a written agreement, join in any  
combination with other political subdivisions to procure or  
contract for policies, contracts, or plans of insurance to provide  
health care benefits for their officers and employees subject to  
the agreement;

~~(5)~~(6) Use in any combination any of the policies, contracts,  
plans, or programs authorized under this division.

(C) Except as otherwise provided in division (E) of this  
section, the following apply to individual or joint self-insurance  
programs established pursuant to this section:

(1) Such funds shall be reserved as are necessary, in the

exercise of sound and prudent actuarial judgment, to cover  
potential cost of health care benefits for the officers and  
employees of the political subdivision. A report of amounts so  
reserved and disbursements made from such funds, together with a  
written report of a member of the American academy of actuaries  
certifying whether the amounts reserved conform to the  
requirements of this division, are computed in accordance with  
accepted loss reserving standards, and are fairly stated in  
accordance with sound loss reserving principles, shall be prepared  
and maintained, within ninety days after the last day of the  
fiscal year of the entity for which the report is provided for  
that fiscal year, in the office of the program administrator  
described in division (C)(3) of this section.

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The report required by division (C)(1) of this section shall  
include, but not be limited to, disbursements made for the  
administration of the program, including claims paid, costs of the  
legal representation of political subdivisions and employees, and  
fees paid to consultants.

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The program administrator described in division (C)(3) of  
this section shall make the report required by this division  
available for inspection by any person at all reasonable times  
during regular business hours, and, upon the request of such  
person, shall make copies of the report available at cost within a  
reasonable period of time.

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(2) Each political subdivision shall reserve funds necessary  
for an individual or joint self-insurance program in a special  
fund that may be established pursuant to an ordinance or  
resolution of the political subdivision and not subject to section  
5705.12 of the Revised Code. The political subdivision may  
allocate the costs of insurance or any self-insurance program, or  
both, among the funds or accounts in the subdivision's treasury on  
the basis of relative exposure and loss experience.

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(3) A contract may be awarded, without the necessity of 78  
competitive bidding, to any person, political subdivision, 79  
nonprofit corporation organized under Chapter 1702. of the Revised 80  
Code, or regional council of governments created under Chapter 81  
167. of the Revised Code for purposes of administration of an 82  
individual or joint self-insurance program. No such contract shall 83  
be entered into without full, prior, public disclosure of all 84  
terms and conditions. The disclosure shall include, at a minimum, 85  
a statement listing all representations made in connection with 86  
any possible savings and losses resulting from the contract, and 87  
potential liability of any political subdivision or employee. The 88  
proposed contract and statement shall be disclosed and presented 89  
at a meeting of the political subdivision not less than one week 90  
prior to the meeting at which the political subdivision authorizes 91  
the contract. 92

A contract awarded to a nonprofit corporation or a regional 93  
council of governments under this division may provide that all 94  
employees of the nonprofit corporation or regional council of 95  
governments and the employees of all entities related to the 96  
nonprofit corporation or regional council of governments may be 97  
covered by the individual or joint self-insurance program under 98  
the terms and conditions set forth in the contract. 99

(4) The individual or joint self-insurance program shall 100  
include a contract with a member of the American academy of 101  
actuaries for the preparation of the written evaluation of the 102  
reserve funds required under division (C)(1) of this section. 103

(5) A joint self-insurance program may allocate the costs of 104  
funding the program among the funds or accounts in the treasuries 105  
of the participating political subdivisions on the basis of their 106  
relative exposure and loss experience. 107

(6) An individual self-insurance program may allocate the 108

costs of funding the program among the funds or accounts in the 109  
treasury of the political subdivision that established the 110  
program. 111

(7) Two or more political subdivisions may also authorize the 112  
establishment and maintenance of a joint health care cost 113  
containment program, including, but not limited to, the employment 114  
of risk managers, health care cost containment specialists, and 115  
consultants, for the purpose of preventing and reducing health 116  
care costs covered by insurance, individual self-insurance, or 117  
joint self-insurance programs. 118

(8) A political subdivision is not liable under a joint 119  
self-insurance program for any amount in excess of amounts payable 120  
pursuant to the written agreement for the participation of the 121  
political subdivision in the joint self-insurance program. Under a 122  
joint self-insurance program agreement, a political subdivision 123  
may, to the extent permitted under the written agreement, assume 124  
the risks of any other political subdivision. A joint 125  
self-insurance program established under this section is deemed a 126  
separate legal entity for the public purpose of enabling the 127  
members of the joint self-insurance program to obtain insurance or 128  
to provide for a formalized, jointly administered self-insurance 129  
fund for its members. An entity created pursuant to this section 130  
is exempt from all state and local taxes. 131

(9) Any political subdivision may issue general obligation 132  
bonds, or special obligation bonds that are not payable from real 133  
or personal property taxes, and may also issue notes in 134  
anticipation of such bonds, pursuant to an ordinance or resolution 135  
of its legislative authority or other governing body for the 136  
purpose of providing funds to pay expenses associated with the 137  
settlement of claims, whether by way of a reserve or otherwise, 138  
and to pay the political subdivision's portion of the cost of 139  
establishing and maintaining an individual or joint self-insurance 140

program or to provide for the reserve in the special fund 141  
authorized by division (C)(2) of this section. 142

In its ordinance or resolution authorizing bonds or notes 143  
under this section, a political subdivision may elect to issue 144  
such bonds or notes under the procedures set forth in Chapter 133. 145  
of the Revised Code. In the event of such an election, 146  
notwithstanding Chapter 133. of the Revised Code, the maturity of 147  
the bonds may be for any period authorized in the ordinance or 148  
resolution not exceeding twenty years, which period shall be the 149  
maximum maturity of the bonds for purposes of section 133.22 of 150  
the Revised Code. 151

Bonds and notes issued under this section shall not be 152  
considered in calculating the net indebtedness of the political 153  
subdivision under sections 133.04, 133.05, 133.06, and 133.07 of 154  
the Revised Code. Sections 9.98 to 9.983 of the Revised Code are 155  
hereby made applicable to bonds or notes authorized under this 156  
section. 157

(10) A joint self-insurance program is not an insurance 158  
company. Its operation does not constitute doing an insurance 159  
business and is not subject to the insurance laws of this state. 160

(D) A political subdivision may procure group life insurance 161  
for its employees in conjunction with an individual or joint 162  
self-insurance program authorized by this section, provided that 163  
the policy of group life insurance is not self-insured. 164

(E) Divisions (C)(1), (2), and (4) of this section do not 165  
apply to individual self-insurance programs in municipal 166  
corporations, townships, or counties. 167

(F) A public official or employee of a political subdivision 168  
who is or becomes a member of the governing body of the program 169  
administrator of a joint self-insurance program in which the 170  
political subdivision participates is not in violation of division 171

(D) or (E) of section 102.03, division (C) of section 102.04, or 172  
section 2921.42 of the Revised Code as a result of either of the 173  
following: 174

(1) The political subdivision's entering under this section 175  
into the written agreement to participate in the joint 176  
self-insurance program; 177

(2) The political subdivision's entering under this section 178  
into any other contract with the joint self-insurance program. 179

Sec. 305.172. As used in this section, "county officer or 180  
employee" includes, but is not limited to, a member or employee of 181  
the county board of elections. 182

The board of county commissioners of any county may establish 183  
and maintain a health savings account program whereby county 184  
officers or employees may establish and maintain health savings 185  
accounts in accordance with section 223 of the Internal Revenue 186  
Code. Public moneys may be used to subsidize premiums for 187  
federally qualified high deductible health plans that are linked 188  
to health savings accounts or to make contributions to health 189  
savings accounts. 190

**Section 2.** That existing section 9.833 of the Revised Code is 191  
hereby repealed. 192