

2003 DRAFTING REQUEST

Bill

Received: **04/08/2003**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **Eileen O'Neill**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Insurance - other insurance**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Allow municipal insurance mutuals to offer property insurance

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 04/10/2003	jdye 04/11/2003		_____			
/1			jfrantze 04/11/2003	_____	mbarman 04/11/2003		
/2	pkahler	jdye	rschluet	_____	mbarman	lemery	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	04/24/2003	04/25/2003 jdyer 04/25/2003	04/25/2003	_____ _____ _____	04/25/2003	05/08/2003	

FE Sent For:

<END>

↳ Not
Needed

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/?	pkahler 04/10/2003	jdyer 04/11/2003					
/1		1/2 4/25 jld	jfrantze 04/11/2003		mbarman 04/11/2003		

Handwritten signatures and date 4-25-03

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May Contact:

Addl. Drafters:

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Extra Copies:

Submit via email: **YES**

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1?	pkahler	11/4/11 jld	11/4/11	J/RS 4/11			

FE Sent For:

<END>

Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section. 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date April 7, 2003

Legislator, agency, or other person requesting this draft Senator Dale Schultz

Person submitting request (name and phone number) Eileen O'Neill, 266-0703

Persons to contact for questions about this draft (names and phone numbers) Eileen O'Neill, 266-0703

Describe the problem, including any helpful examples. How do you want to solve the problem?

Add property insurance to stat. 611.11(4)(b).
See attached

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
Any legislator? YES NO

Only the following persons Jon Hochkammer

Do you consider this request urgent? YES NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person? YES NO

611.07 DOMESTIC STOCK AND MUTUAL CORPORATIONS

mutuals, except that references to "attorney general" shall be read as "commissioner".

(4) **WAIVER OF NOTICE AND INFORMAL ACTION BY SHAREHOLDERS, POLICYHOLDERS OR DIRECTORS.** Sections 180.0704, 180.0706, 180.0821 and 180.0823 apply to stock corporations and ss. 181.0704, 181.0706, 181.0821 and 181.0823 apply to mutuals. Section 181.0821 also applies to a committee of the board of a mutual, except that references to "board" shall be read as "committee".

(6) **POWER TO HOLD ASSETS AS TRUSTEE.** A life insurance corporation may hold assets under s. 632.42 (1) as trustee or as general corporate assets.

(7) **CORRECTING FILED DOCUMENT.** Section 180.0124 applies to stock corporations.

History: 1971 c. 260; 1973 c. 128 ss. 25, 30; 1973 c. 184, 336; 1975 c. 373 s. 40; 1975 c. 375 s. 44; 1975 c. 422; 1979 c. 110; 1987 a. 13; 1989 a. 303; 1997 a. 79, 252.

SUBCHAPTER II

ORGANIZATION OF CORPORATIONS

611.10 Reservation of corporate name. Sections 180.0402 and 180.0403 (2), (3) and (3m) apply to stock corporations and ss. 181.0402 and 181.0403 (2), (3) and (3m) apply to mutuals.

History: 1971 c. 260; 1973 c. 128; 1981 c. 390 s. 252; 1989 a. 303; 1993 a. 331; 1997 a. 79.

611.11 Incorporators. (1) GENERAL. Any number of corporate or adult natural persons may organize a corporation under this chapter.

(2) **CLOSELY HELD, SUBSIDIARY AND AFFILIATED CORPORATIONS.** One to 15 corporate or adult natural persons may organize a corporation under s. 611.22.

(3) **MUTUAL REINSURANCE CORPORATIONS.** A mutual reinsurance corporation having the exclusive purpose of providing reinsurance for its member corporations may be organized by 15 or more mutuals under this chapter and town mutuals under ch. 612. The commissioner may exempt the corporation from any of the requirements of ss. 611.12 to 611.20 if the commissioner considers them unnecessary for the protection of the members.

(4) **MUNICIPALITIES. (a)** In this subsection, "municipality" has the meaning given in s. 345.05 (1) (c).

(b) Any number of municipalities or associations of municipalities or both may organize a municipal insurance mutual under s. 611.13, subject to s. 611.23, to provide any of the following for its members:

1. Worker's compensation insurance.
2. Liability insurance.
3. Risk management services.

History: 1971 c. 260; 1973 c. 243; 1977 c. 346; 1979 c. 102 ss. 236 (6), 237; 1981 c. 390 s. 252; 1995 a. 197.

611.12 Articles and bylaws. (1) STOCK CORPORATIONS. Section 180.0202 applies to the articles of a stock corporation, except that:

(a) The name of the corporation shall include the word "insurance" or a term of equivalent meaning, and shall comply with s. 180.0401 (2) to (4);

(am) The articles shall include a statement that the corporation is organized under this chapter;

(b) Authorized shares shall conform to s. 611.33 (1); and

(c) The purposes of the corporation shall be limited to those permitted by s. 610.21.

(2) **MUTUALS.** Section 181.0202 applies to the articles of a mutual, except that:

(a) The name of the corporation shall include the words "mutual" and "insurance" or terms of equivalent meaning and shall comply with s. 181.0401 (2) to (4);

(am) The articles shall include a statement that the corporation is organized under this chapter;

(b) The articles shall include provision for mutual bonds if any are to be authorized, which shall conform to s. 611.33 (2) (a);

(c) The purposes of the corporation shall be limited to those permitted in s. 610.21;

(d) If assessable policies are permitted, the articles shall contain general provisions respecting assessment liabilities and procedures, including a provision specifying the classes of business on which assessment may be separately levied; and

(e) The articles may specify those classes of persons who may be policyholders, or prescribe the procedure for establishing or removing restrictions on the classes of persons who may be policyholders, and the articles shall state that each policyholder is a member of the corporation.

(3) **PRINCIPAL OFFICERS.** Sections 180.0840 and 180.0841 apply to stock corporations and ss. 181.0840 and 181.0841 apply to mutuals. Notwithstanding s. 180.0840 (1) or 181.0840 (1), the articles or bylaws shall specifically designate 3 or more offices, the holders of which shall be the principal officers of the corporation. Notwithstanding s. 180.0840 (3) or 181.0840 (3), the principal offices shall be held by at least 3 separate individuals.

(4) **BYLAWS.** The bylaws of a domestic corporation shall comply with this chapter, and a copy of the bylaws and any amendments thereto shall be filed with the commissioner within 60 days after adoption. Subject to this subsection, to ss. 611.13 (2) (d) and (5) and 611.22 (4), ss. 180.0206 and 180.1020 to 180.1022 apply to stock corporations and ss. 181.0206, 181.0207 and 181.1021 apply to mutuals.

History: 1971 c. 260; 1989 a. 303; 1997 a. 79; 1999 a. 85.

611.13 Organization permit and certificate of incorporation. (1) PERMIT REQUIRED. No person may, in the case of a stock corporation, solicit subscriptions for its securities, or in the case of a mutual, solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes, until the commissioner has issued an organization permit.

(2) **APPLICATION FOR PERMIT.** The application for an organization permit shall be signed and acknowledged by or on behalf of each incorporator, and shall include or have attached:

(a) The names, and for the preceding 10 years all addresses and all occupations of all incorporators and proposed directors and officers;

(b) For all corporate incorporators, their articles and bylaws, a list of the names, addresses and occupations of all directors and principal officers, and for the 3 most recent years their annual financial statements and reports;

(c) The proposed articles which shall be signed and acknowledged by or on behalf of each incorporator, and the proposed bylaws;

(d) All agreements relating to the corporation to which any incorporator or proposed director or officer is a party;

(e) The amount and sources of the funds available for organization expenses and the proposed arrangements for reimbursement and compensation of incorporators or other persons;

(f) The proposed compensation of directors and officers;

(g) The plan for solicitation of applications for qualifying insurance policies and for the corporation's securities;

(h) The forms to be used for stock subscriptions, certificates for shares, applications for qualifying insurance policies, subscriptions for mutual bonds and contribution notes, and the forms for bonds and notes;

(i) The proposed capital, or the proposed minimum permanent surplus, and the proposed initial surplus;

(j) The plan for conducting the insurance business, including:

1. The geographical area in which business is intended to be done in the first 5 years;
2. The types of insurance intended to be written in the first 5 years;

originally intended for local programming are required to pay the cost of hospitalization where both utilization and rates have continued to increase. Community aids appropriations to counties have failed to keep pace with these increases and have, in some cases, actually declined.

- ◇ Enact legislation that requires the state to fund placements in the state mental health institutions.

Objective Jail Classification

Current law requires counties to segregate jail inmates based on conviction status, gender and whether or not they are mentally ill. Numerous studies have indicated that safety and security concerns in jails decrease if more objective factors are used in determining prisoner housing assignments.

- ◇ Modify current law to support the use of an objective jail classification system in Wisconsin.

Open Records Law

Currently, state and local governmental records may be available for public inspection and copying. In 1996, the Wisconsin Supreme Court in the *Woznicki v. Erickson* decision created new standards governing the release of public records containing personal information concerning public employees. However, records custodians have been given little guidance by either the courts or the legislature on how to interpret or apply current exemptions and requirements pertaining to the release of certain governmental documents. A 2002 Joint Legislative Council was established to review certain laws relating to the Open Records Law in Wisconsin.

- ◇ Support legislation that would make clarifications to the Open Records Law addressing new issues that have arisen from the advancement of electronic documents pertaining to fee collection, personal privacy, county liability and notes that are personal in nature.
- ◇ Support legislation that would clarify which custodians and what records are subject to *Woznicki* and support legislation that would allow the interested parties an opportunity to petition the court relating to the record without involving the county further in the legal process.

Pothole Liability

Several counties are using taxpayer dollars to pay for litigation and lawsuit settlements that have resulted from accidents caused by drivers who have hit a pothole on a county road.

- ◇ Exempt counties from liability resulting from accidents involv-

ing potholes or disrepair on county roads.

Probation and Parole

Counties currently receive \$40 per day reimbursement from the state of Wisconsin for probation and parole holds. No reimbursement is received for holds that have pending criminal charges. The reimbursement rate does not cover county costs, especially in this era of overcrowded jails.

- ◇ Increase the daily reimbursement rate.
- ◇ Mandate increases in the daily rate annually based on national CPI.
- ◇ Require the state to pay for all medical costs associated with housing probation and parole inmates.
- ◇ Require that counties receive payment for probation and parole holds if there is a pending criminal charge if an inmate (1) has been before a judge, and (2) would be released on a signature bond or has the ability to post a cash bond.
- ◇ Rescind statutory proration language and replace with mandatory payments.

Probation and Parole Reimbursements

State Fiscal Year	Total Hold Reimbursement Funds	Statutory Maximum Daily Rate	Prorated Daily Rate	Total Billable Days
1993-94	\$2,564,600	\$40.00	\$37.43	68,510
1994-95	\$3,164,000	\$40.00	\$36.36	87,016
1995-96	\$3,613,800	\$40.00	\$40.00	90,345
1996-97	\$3,797,280	\$40.00	\$40.00	94,932
1997-98	\$4,019,756	\$40.00	\$38.97	103,150
1998-99	\$3,732,640	\$40.00	No Proration	93,316
1999-00	\$4,018,930	\$40.00	\$37.29	107,775
2000-01	\$4,019,603	\$40.00	\$33.15	121,255
2001-02	\$4,935,100	\$40.00	\$37.02	133,308

Property Insurance

Current law prohibits Wisconsin's municipal mutual insurance companies from providing their policyholders property insurance coverage. These insurance carriers were formed in a time of decreasing competition, diminished capacity and skyrocketing premiums. Since their formation, these insurance programs have been able to reshape the insurance marketplace for public entities. This change came about with an understanding of, and the willingness to, assume risk of common occurrences and insure for

2003-2004 Legislative Agenda

catastrophic events. Since the tragedy of 9-11, the insurance industry has experienced decreased property insurance capacity and rising reinsurance costs. Similar to the marketplace of the mid-1980's, today's public entity property insurance buyers are in dire need of increased competition to assist budget conscious public officials in controlling property insurance costs. We believe that the best forum to confront this rapidly deteriorating and prohibitive property insurance market is to allow municipal mutuals the ability to offer property insurance coverage in concert with their very successful liability insurance programs.

- ◇ Allow municipal insurance companies to provide property insurance to their policyholders.

Private On-site Wastewater

Treatment Systems

In the adoption of Administrative Rule Comm 83, or the state septic code, the provision which designates holding tanks as systems of last resort was eliminated. The Wisconsin Fund Program is a grant program for low income individuals who need financial assistance to replace their failing septic systems; however, the money can only be used to purchase a system of lowest cost. Therefore, under the new COMM 83 regulations, a holding tank would now be the system of lowest cost for any recipient of the Wisconsin Fund Program.

- ◇ Change state statutes to either exempt holding tanks as systems of lowest cost under the Wisconsin Fund Program, or require revision of COMM 83 to declare holding tanks systems of last resort.

Recycling Alternative Compliance Program

The 2001-03 Biennial Budget Bill directed DNR to establish and administer a new pilot program for an alternative method of complying with recycling requirements. The pilot will provide flexibility in complying with the effective recycling program requirements to recycling materials subject to the 1995 landfill and incineration bans. Participation is voluntary and could potentially allow responsible units to save money by not recycling materials that are difficult to market or costly to recycle. However, state statutes currently require the sunset of the pilots by December 31, 2005 without any criteria for possible continuation of successful participants.

- ◇ Extend the current sunset date to allow for adequate time to test the success of the pilot programs.
- ◇ Create administrative or statutory criteria for the continuation of successful alternative compliance programs.

Recycling Fund

Currently there is a surplus in the state Recycling Fund. However, on several occasions these monies have been diverted for non-recycling related uses such as chronic wasting disease and solving the state budget deficit. There are several recycling programs that would benefit from increased funding such as the grants to responsible units, the efficiency incentive grants and the alternative compliance pilots.

- ◇ Oppose the transfer of monies from the state Recycling Fund for non-recycling purposes.

Sales Tax Administration

The Wisconsin Department of Revenue (DOR) currently administers the county sales tax and charges a processing fee to counties. The processing fee is intended to cover the state's costs associated with collecting, enforcing and administering the county sales tax.

- ◇ Reduce the county sales tax administrative fee from 1.75% to no more than 1.4% to more accurately reflect the state's costs.

Reinsurance For Wholly-owned Subsidiaries of Municipal Owned Mutual Insurance

Corporations

Current law prohibits Wisconsin's municipal mutual insurance corporations from providing reinsurance coverage for their wholly-owned subsidiaries. Changes in the marketplace and ever increasing budget constraints on local government signal the need to allow counties this option. Providing reinsurance in a very limited climate will better serve the taxpayers of this state.

- ◇ Modify current law to allow a municipally owned mutual insurance corporation to provide reinsurance coverage to a wholly-owned subsidiary.

State Highway Maintenance

The State Highway Maintenance and Traffic Operations Program is responsible for activities installation on the state trunk highway system such as minor pavement and bridge repairs, roadside mowing, snow and ice clearing, pavement marking, and sign and traffic signals. Wisconsin is unique in that most of the work related to minor pavement repair, as well as snow and ice clearing, is performed by county highway crews under contract with the state. State highway maintenance is drastically under funded and many county highway commissioners are concerned about the safety of



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2494/1

PJK:1....

JLD

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

D-note

gen cat

1 AN ACT ^{gen cat}; relating to: authorizing municipal insurance mutuels to provide
2 property insurance. ✓

✓ or associations of municipalities

Analysis by the Legislative Reference Bureau

Under current law, any number of municipalities may organize a municipal insurance mutual to provide worker's compensation insurance, liability insurance, or risk management services to the members of the municipal insurance mutual. This bill authorizes a municipal insurance mutual to provide property insurance to its members, also.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 611.11 (4) (b) 4. [✓] of the statutes is created to read:
4 611.11 (4) (b) 4. Property insurance. ✓

5 (END)

D-note

D-note

Please review A. 67.04 (5) (b) 3. ✓

and let me know if you want property
insurance added to it.

PJK

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2494/1dn
PJK:jld:jf

April 11, 2003

Please review s. 67.04 (5) (b) 3. and let me know if you want property insurance added to it.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2494/2
PJK:jld:jf

rmis run

2003 BILL

regenerate ↓

1 AN ACT *to create* 611.11 (4) (b) 4. of the statutes; relating to: authorizing
2 municipal insurance mutuels to provide property insurance.

Analysis by the Legislative Reference Bureau

Under current law, any number of municipalities or associations of municipalities may organize a municipal insurance mutual to provide worker's compensation insurance, liability insurance, or risk management services to the members of the municipal insurance mutual. This bill authorizes a municipal insurance mutual to provide property insurance to its members, also. *insert A* ✓

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3 SECTION 1. 611.11 (4) (b) 4. of the statutes is created to read:
4 611.11 (4) (b) 4. Property insurance.
5 (END)

insert 1-3

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2494/2ins
PJK:jld:jf

INSERT A

not The bill further provides that notes or municipal bonds issued by a county for the purpose of providing property insurance to the members of a municipal insurance mutual are exempt from the requirement under current law that the proceeds of the notes or municipal bonds may not be used to fund the operating expenses of the general fund of the county. This same exemption applies under current law to notes or municipal bonds issued by a county for the purpose of providing liability insurance or risk management services to the members of a municipal insurance mutual.

(END OF INSERT A)

Inset 1-3

Section #. 67.04 (5) (b) 3. of the statutes is amended to read:

67.04 (5) (b) 3. To provide liability insurance ~~and~~ risk management services under s. 611.11 (4).

History: 1983 a. 207, 236, 368, 538; 1987 a. 197; 1993 a. 16; 1995 a. 227; 1999 a. 9; 1999 a. 150 s. 672.

, property insurance, or

(end of ins 1-3)

Emery, Lynn

From: Emery, Lynn
Sent: Monday, April 28, 2003 9:51 AM
To: Sen.Schultz
Subject: LRB-2494/2 (attached as requested)



03-2494/2

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us

Emery, Lynn

From: O'Neill, Eileen
Sent: Thursday, May 08, 2003 11:12 AM
To: Emery, Lynn
Subject: FW: LRB-2494/2 (attached as requested)

Lynn,

John O'Brien checks Dale's email and forwarded me this bill draft because it's one I requested. I would like to get it jacketed but I checked Dale's email account and it's no longer there for me to open and check the box. Can you please have it jacketed? Thanks.

Eileen O'Neill
Office of Senator Dale Schultz
608-266-0703
800-978-8008

-----Original Message-----

From: OBrien, John
Sent: Monday, April 28, 2003 12:31 PM
To: O'Neill, Eileen
Subject: FW: LRB-2494/2 (attached as requested)

-----Original Message-----

From: Emery, Lynn
Sent: Monday, April 28, 2003 9:51 AM
To: Sen.Schultz
Subject: LRB-2494/2 (attached as requested)



03-2494/2

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us