# Risk Pools and Texas School Districts

Risk Pools have been providing schools and colleges in Texas with focused, adequate protection for many years, but recent failures to pay claims requires a closer investigation before risking public funds.

Texas has seen at least three risk pools go defunct in the past, leaving public entities with assessments, outstanding claims and premiums that were paid in advance. In 2017, TAPS filed bankruptcy. That bankruptcy still has not yet been settled.

This year the Oklahoma Schools Risk Management Trust announced that it would cease operations at the end of June and invoice each of its 78 members 11% additional contribution plus another 42% to pay for claims "run off" (NONDOC, Apr 6, 2021).

In 2015 the Illinois' Worker's Compensation School Insurance Trust (WCSIT, a risk pool) had a deficit of $6.2 million according to the Insurance Department. Close to 200 districts are "on the hook" for about $9 million. (Chicago Tribune, May 1, 2014) In Kentucky a school board trust had a $50-60 million deficit, with some districts responsible for up to $1 million. (Richmond Register, Jan 14, 2013)

Because of the devasting hurricane, hail and tornados, Texas risk pools have had to dramatically increase pricing and deductibles. Some face eminent bankruptcy. One pool is advising districts that claims will be paid 1) when new premium is received, 2) over three years or 3) if the district would take out a loan on which the pool would make the payments (will they?). That same pool is 1) requesting contractors to take out loans on which the pool would make the payments, 2) being sued by districts for failure to pay claims, 3) withholding re-insurer funds for payment of claims. Other pools are also facing law suits.

The minimum capital requirement to form an insurance company in Texas is $2,500,000 of paid-in-surplus and $2,500,000 in capital stock. Few Texas risk pools comply with that requirement. While some pools show a reserve for incurred claims that have not yet been reported, few show a reserve for future claims. Claims should be paid from funds already collected.

**Risk Pool Managers Bear <u>NO RISK</u>**

The managers and the agents bear no risk – only the members. Risk pools are nothing more than mutual insurance companies; at one time public entities were not allowed to purchase from mutual companies. If a risk pool is profitable, the members get the advantage of reduced rates. But if the pool is unprofitable, the MEMBER DISTRICTS may be faced with assessments (additional contributions) regardless of what they tell you. No insurance company or stock stands behind these pools except reinsurance above high retentions (deductibles).

The reinsurance structure and pool solvency are important to ascertain. Too high of Hail claim retention forced TAPS into bankruptcy. Audited financial statements lag at least one year.

**Many Formed to Circumvent the Bid Laws (44.031)**

Some risk pools are using interlocal agreements in an effort to "beat" the bid laws. There is a lot of work and some risk for a school to prepare an RFP for insurance. Public entities try to avoid RFPs, and they can do so by participating in an Interlocal Agreement. Interlocals were designed to take advantage of group purchasing, but the advantages of group purchasing are diminished when purchasing insurance. Sure, the coverage may be better designed for the members of the group, but the price is not necessarily lower. Every district should have a bidding procedure in place.

**No Oversight**

Interlocal risk pools are not subject to oversight by Texas Department of Insurance or any other state department and are not required to submit financial reports. Hence, some risk pools provide <u>no financial data</u> to its members, its owners, even though the funds belong to the members. Who would invest in a company without seeing financials? There is no A.M. Best rating, no S & P rating. Risk pools are not subject to the Texas Insurance Guaranty Fund ($300,000). The funds at risk belong the members, to the taxpayers of the State of Texas. We currently are doing nothing to protect those funds.

**No Professional Liability Insurance for Board Members and Agents**

Local independent agents typically purchase their Professional Liability (Errors & Omissions) insurance through the Independent Insurance Agents of Texas. The insurer for that program does not provide coverage if the insurance companies that the agents represent become insolvent and have an A.M. Best rating lower than B+. This includes non-rated insurance companies and risk pools. Both Educator (Directors & Officers) Liability coverage typically excludes actions against a board for failure to purchase adequate insurance. And FEMA will not respond to property damage claims.

## How can a superintendent or school board, as fiduciaries of taxpayer funds, jeopardize a district's assets by participating in a risk pool, when they have no idea as to the pool's financial ability to pay losses?

Short of oversight, the State of Texas needs to at least require that audited financial statements with reinsurance information be provided to their members, before TAPS happens again.

**Texas School Risk Pools**

| Risk Pool Name | Known | Member Equity | Year | Notes |
|---|---|---|---|---|
| Texas Association of School Boards Risk Management Fund | TASB | $219,519,523 | 2020 | From $255,301,326 for 2014 |
| Deep East Texas Self Insurance Fund | DETSIF | $27,350,658 | 2019 | Increase since 2017 |
| Texas Political Subdivisions Joint Self-Insurance Funds | TPS | $6,411,637<br>$1,447,505 | 2019<br>2019 | PC Pool<br>WC Pool |
| Property Casualty Alliance of Texas (North American Solutions) | PCAT | $6,074,701<br>Does not provide Financials | 2015 | $16,091,399 in 2010<br>$3,000,000 2018 verbal. Non renewing |
| Worker's Compensation Solutions (affiliated with PCA/North American Solutions) | WCS | $3,479,167<br>Does not provide Financials | 2016 | WC Pool |
| Public Educators Association of Texas | PEAT | $874,581 | 2020 | PC only Pool. WC with CAS. |
| Texas Association of Public Schools Property & Liability Fund | TAPS | -$1,892,293 | 2016 | Bankrupt Sept 2017 |
| Creative Risk Funding (cannot find a web site) | School Comp | 0 | 2020 | No Member Equity<br>No Income Statement |
| Claims Administrative Services | CAS | Does not provide Financials | | $9,600,564 for 2019. WC only. |
| Coastal Property Alliance of Texas (North American Solutions coast) | CPAT | Does not provide Financials | | Shared Limits |
| Regional Pool Alliance (cannot find a web site) | Alliance | Does not provide Financials | | Shared Limits |
| West Texas Rural Counties Assn Risk Pool (insures coastal schools in same pool as above) | West Texas Counties | Does not provide Financials | | Non renewing schools in 2018 |
| Texas Schools Property & Casualty Coop > Texas Rural Education Assn | TREA (TSPCC) | Does not provide Financials | 2008 | Assessment 2014 – 15%. Claims are paid in installments. Suits. |