

Date: February 13, 2002
Bulletin 2002-002

AUDITOR OF STATE BULLETIN

TO: MAIN BRANCH LIBRARY CLERK-TREASURERS
EDUCATIONAL SERVICE CENTERS - FINANCE OFFICERS
EDUCATIONAL SERVICE CENTERS - BOARDS OF EDUCATION
COMMUNITY SCHOOLS
CITY AUDITORS/FINANCE DIRECTORS/TREASURERS
CITY LAW DIRECTORS/SOLICITORS/ ATTORNEYS
CITY BOARDS OF HEALTH
VILLAGE CLERK-TREASURERS/FINANCE DIRECTORS
TOWNSHIP TRUSTEES
SCHOOL DISTRICT TREASURERS
COUNCIL OF SCHOOLS/EDUCATION RELATED
JOINT VOCATIONAL SCHOOL DISTRICT TREASURERS
BOARDS OF EDUCATION
CITY MAYORS/CITY MANAGERS
VILLAGE MAYORS
VILLAGE ADMINISTRATORS
VILLAGE LAW DIRECTORS/SOLICITORS/ ATTORNEYS
TOWNSHIP CLERKS
TOWNSHIP ADMINISTRATORS
COUNTY AUDITORS
COUNTY FAMILY & CHILDREN FIRST COUNCILS
COUNTY TREASURERS
COUNTY COMMISSIONERS
COUNTY ADAMH SERVICES BOARDS
COUNTY BOARDS OF HEALTH
PARK DISTRICTS
COUNTY & INDEPENDENT FAIRS
COUNTY ADMINISTRATORS
PUBLIC MEDICAL COLLEGES
PUBLIC TECHNICAL COLLEGES
COLLEGE FOUNDATIONS
TRANSIT AUTHORITY BOARDS
PORT AUTHORITIES
FIRE & AMBULANCE DISTRICTS
WATERSHED CONSERVANCY DISTRICTS
SPECIAL DISTRICTS
ECONOMIC DEVELOPMENT & PLANNING AGENCIES
COMMUNITY IMPROVEMENT CORPORATIONS
PUBLIC UNIVERSITY FISCAL OFFICERS
PUBLIC COMMUNITY COLLEGE FISCAL OFFICERS
METROPOLITAN HOUSING AUTHORITIES
AIRPORT AUTHORITIES
SOIL & WATER CONSERVATION DISTRICTS
WATER & SEWER DISTRICTS

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TO: CEMETERIES
COUNCILS OF GOVERNMENT
HOSPITALS
VETERANS ORGANIZATIONS
COMMUNITY DEVELOPMENT CORPORATIONS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: DEMUTUALIZATION OF INSURANCE COMPANIES

The Prudential Insurance Company and Anthem Blue Cross and Blue Shield Insurance Company have recently completed plans to convert from private mutual insurance companies to publicly traded insurance companies (a process known as "demutualization"). Generally, policyholders of mutual insurance companies are considered "members" of the mutual insurance company and are entitled to vote on organizational matters such as the election of officers. As a result of these demutualizations, eligible members of each company will receive cash or shares of the companies' new publicly traded common stock in exchange for their membership interests in the former mutual insurance companies. Those eligible members who receive stock will become stockholders of the new public insurance companies.

Members of each company should have already received information regarding their rights as policyholders or eligible members as it relates to the two companies' respective conversions to publicly traded companies. The purpose of this Bulletin is to provide guidance to public bodies regarding accounting and compliance issues related to the distribution of stock and/or cash received by the public body as a result of these conversions.

It is important to note that as a result of the demutualization process, some public body employees may receive stock and/or cash directly from the insurance companies. This is a result of the employee being deemed as having ownership rights as a member of the mutual insurance company under the mutual insurance company's plan of conversion. Therefore, an employee who has received stock and/or cash directly from the insurance company is being compensated in exchange for his or her deemed membership interest in the mutual insurance company. As such, it would appear that those employees receiving cash or stock directly should retain the cash or stock regardless of the public employee's and employer's respective contributions to the employee's premium in any group policy covering the employee.

In some instances, the party eligible for the payment of cash or stock would be the public body itself. If a public body received stock pursuant to a mutual insurance company's

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plan of conversation, management should be advised that Article VIII, Sections 4 and 6 of the Ohio Constitution, prohibit public bodies from becoming a “stockholder in any joint stock company, corporation or association.” That being said, Article VIII, Section 6 of the Constitution provides an exemption which allows public bodies to purchase insurance from mutual insurance companies. Therefore, because any such Prudential or Anthem stock initially received by a public body because of the companies’ demutualization can be said to have been derived from the public body’s constitutionally permissible purchase of insurance from a mutual insurance company, the Auditor of State will not cite nor issue a Finding for Recovery against a public body that has received stock in this way. However, because of the constitutional prohibition on public bodies being stockholders in public corporations, the Auditor of State’s recommendation is that each public body receiving stock should sell the stock at a reasonably prompt and beneficial time at the discretion of the public body.

Public bodies that receive cash directly from Prudential or Anthem or as a result of the sale of their stock may deposit and record it at their discretion. The Auditor of State does not consider such monies to be a “rebate,” which would require it to be recorded in the funds from which the insurance premiums were paid. Nor do we consider it “interest earned on public money,” which in most cases would require it to be recorded in the general fund. Therefore, our recommendation is that in a public meeting, the legislative body or governing board of each public office should determine the fund into which the cash will be recorded and that decision should be reflected in the minutes of that meeting.

Questions regarding this Bulletin may be directed to the Legal Division of the Auditor of State’s Office at 614-752-8683 or 1-800-282-0370.