



Dave Yost • Auditor of State

Bulletin 2011-008

Auditor of State Bulletin

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TO: Municipalities, Counties, Townships, School Districts, Individual and Joint Self-Insurance Programs, and Independent Public Accountants.

FROM: Dave Yost
Ohio Auditor of State

SUBJECT: Rev. Code 9.833

I. Ohio Rev. Code § 9.833 Summary

Ohio Rev. Code § 9.833 provides the statutory authority to political subdivisions to engage a variety of methods to secure health care benefits for their officers or employees. Specifically, this statute allows political subdivisions to do any one or a combination of the following:

- (1) establish and maintain individual self-insurance health care benefit programs,
- (2) establish and maintain a health savings account program,
- (3) enter into agreements with other political subdivisions to jointly administer the individual self-insurance health care benefit programs of each,
- (4) enter into agreements with other political subdivisions to establish and maintain joint self-insurance health care benefit programs, and
- (5) enter into agreements with other political subdivision to jointly procure or contract for policies, contracts, or plans of insurance to provide health care benefits.¹

Where an individual or joint self-insurance program is established by one of the methods referenced above, Ohio Rev. Code § 9.833 also provides certain requirements that each program must meet, including the provision of a yearly report from a member of the American academy of actuaries.²

¹ ORC § 9.833(B)

² ORC § 9.833(C)

II. Recent Legislative Changes

Recent legislative changes have increased the reporting requirements for individual and joint self-insurance programs, and have included certain self-insurance programs that were specifically exempted under previous law. House Bill 153, effective September 30th of this year, amended Ohio Rev. Code § 9.833 in the following manner:

- (1) In addition to the required report from a member of the American academy of actuaries, every individual or joint self-insurance program must now also provide a certified audited financial statement,
- (2) The report from a member of the American academy of actuaries, and the certified audited financial statement must be provided by the program administrator to the Auditor of State, and
- (3) Every individual or joint self-insurance program must include a contract with a certified public accountant for preparation of the certified audited financial statement.³
- (4) Under previous law, individual self-insurance programs in municipal corporations, townships and counties were not required to comply with divisions (C)(1), (2) and (4) of this section. The statute now only exempts self-insurance programs created solely by municipal corporations. Individual self-insurance programs created in townships and counties are now required to comply with all applicable provisions of the law. Generally, this means that county or township individual self-insurance programs are required to:
 - Provide to the Auditor of State a certified audited financial statement and a report of amounts so reserved and disbursements made from the relevant funds, together with a written report of a member of the American academy of actuaries, as provided in (C)(1),
 - Establish a reserve fund and reserve such funds necessary for the individual self-insurance program, as provided in (C)(2),
 - Include a contract with a certified public accountant and a member of the American academy of actuaries for the preparation of the written evaluations required under (C)(1).

III. Impact on Individual and Joint Self-Insurance Programs

A. Programs Already Audited Pursuant to Chapter 117(Other than County and Township Individual Self-Insurance Programs)

Most individual and joint self-insurance pools in existence in Ohio are currently subject to audit pursuant to Chapter 117 of the Ohio Revised Code. The individual and joint self-insurance programs already subject to such audit will not experience any change as a result of the amendments to Ohio Rev. Code § 9.833. The Chapter 117 audit of each will satisfy the requirements that the program provide a certified audited financial statement and include a contract with a certified public accountant.

³ ORC § 9.833

As a result, individual and joint-self insurance programs already being audited pursuant to Chapter 117 need take no additional action.

B. County and Township Individual Self-Insurance Programs

As stated above, county and township individual self-insurance programs are now required to comply with divisions (C)(1), (2) and (4). This will require that such programs create and fund the reserve account discussed in (C)(2) and contract with a member of the American academy of actuaries for the preparation of the actuarial report, as required by divisions (C)(1) and (4).

Counties and townships are already subject to audit pursuant to Chapter 117. The Chapter 117 audit of each will satisfy the requirements to provide a certified audited financial statement of the program and to include a contract with a certified public accountant.

C. Programs Not Audited Pursuant to Chapter 117

In addition to the programs referenced above, several individual and joint self-insurance pools exist in Ohio that are not currently being audited pursuant to Chapter 117, including Voluntary Employee Benefit Associations (VEBAs). Many of these programs were established prior to the enactment of Ohio Rev. Code § 9.833. As of the date of its enactment, however, this provision provided the necessary authority for each member political subdivision to participate in the individual or joint self-insurance program. As such, it is the opinion of the Auditor of State that these programs, despite the establishment date, are subject to provisions of Ohio Rev. Code § 9.833, including all requirements provided therein.

This now requires that all such individual and joint self-insurance programs have, in addition to the report from the actuary, a certified audited financial statement and a contract with a certified public accountant for the provision of such financial statement. The individual and joint self-insurance programs must then provide the certified audited financial statement to the Auditor of State, pursuant to Chapter 117.⁴

IV. Responsibility of Member Political Subdivisions

Ohio Rev. Code § 9.833 mandates that individual and joint self-insurance pools take the actions detailed above. That provision, though, also provides the basic authority for political subdivisions to establish/participate in individual and joint self-insurance programs. As such, it is important to note that each member political subdivision has the responsibility to ensure that any program it participates in is in compliance with such provisions.

⁴ ORC § 9.833(C)(1)

V. Timeline for Compliance

Individual and joint self-insurance programs are expected to comply with the above-referenced requirements for the 2012 audit year. There will be no retroactive application for the 2011 audit year.

A handwritten signature in black ink that reads "Dave Yost". The signature is written in a cursive style with a large, looping initial "D".

Dave Yost
Ohio Auditor of State