

1 COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2 Legislative Session 1985

3 Proposed and Presented by The Chairman (by request -

4 County Executive)

5 Introduced by Council Member Willson

6 Bill No. CG-111-1985

7 Chapter No. 102

8 Introduced by Council on October 15, 1985

9 BILL

10 AN ACT concerning

11 Risk Management Fund

12 FOR the purpose of clarifying that only persons recognized as
13 volunteers by the Chairman of the Risk Management Fund are persons
14 covered under the County's Risk Management Fund as volunteers.

15 BY repealing and reenacting with amendments:

16 SUBTITLE 10. FINANCE AND TAXATION.

17 Section 10-181.3(b),

18 The Prince George's County Code

19 (1983 Edition).

20 SECTION 1. BE IT ENACTED by the County Council of Prince
21 George's County, Maryland, that Section 10-181.3(b) of the Prince
22 George's County Code is hereby repealed and reenacted with the
23 following amendments:

24 SUBTITLE 10. FINANCE AND TAXATION.

25 DIVISION 3. SELF-INSURANCE FUND.

26 Sec. 10-181.3. Definitions.

27 (b) The word "employee" as used in this Division shall
28 mean any duly elected or appointed official, member, trustee,
29 full-time or part-time employee, [recognized] volunteer [recognized
30 by the Chairman of the Risk Management Fund] or any other person
31 employed by or acting on behalf of any Risk Management Fund
32 member, including such person when acting in the capacity of

1 trustee, officer, employee or agent of any trust or pension plan
2 created by a Member.
3

4 SECTION 2. BE IT FURTHER ENACTED that this Act shall take
5 effect forty-five (45) calendar days after it becomes law.

6 Adopted this 19th day of November, 1965.

7 COUNTY COUNCIL OF PRINCE
8 GEORGE'S COUNTY, MARYLAND

9 BY: 
10 William J. Amorette
11 Chairman

12 ATTEST:

13 
14 John M. Spahr, Clerk

15 DATE December 4, 1965

16 APPROVED:

17 BY: 
18 Ferris W. Glendon
19 County Executive

20 KEY:

21 Underlining indicates language added to existing law.
22 Brackets indicate language deleted from existing law.

23 TO BECOME EFFECTIVE JANUARY 21, 1966
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1 COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
 2 Legislative Session _____ 1983
 3 Proposed and Presented by Chairman (by request - County
 4 Executive)
 5 Introduced by Council Member Casula
 6 Bill No. _____ CB-31-1983
 7 Chapter No. _____ 27
 8 Introduced by Council on May 3, 1983

BILL

10 AN ACT concerning
 11 Self-Insurance Fund
 12 FOR the purpose of providing for a program of self insurance for
 13 the County and boards, agencies and commissions operating in
 14 Prince George's County.

15 BY repealing:

SUBTITLE 10. FINANCE AND TAXATION.
 Sections 10-174 through 10-182,
 The Prince-George's County Code
 (1979 Edition, 1981 Supplement).

20 By adding:

SUBTITLE 10. FINANCE AND TAXATION.
 Sections 10-174 through 10-181.3,
 The Prince George's County Code
 (1979 Edition, 1981 Supplement).

25 Section 1. BE IT ENACTED by the County Council of Prince
 26 George's County, Maryland, that Sections 10-174 through 10-182
 27 of the Prince George's County Code be and the same are hereby
 28 repealed.

SUBTITLE 10. FINANCE AND TAXATION.
 DIVISION 5. SELF-INSURANCE FUND.

31 [Sec. 10-174 through 10-182].

32 Section 2. BE IT FURTHER ENACTED, that new Sections

1 10-174 through 10-181.3 be and the same are hereby added to the
2 Prince George's County Code:

3 SUBTITLE 10. FINANCE AND TAXATION.

4 DIVISION 5. SELF-INSURANCE FUND.

5 Sec. 10-174. Establishment of Risk Management Fund.

6 (a) There is established and created for Prince George's
7 County and for municipal corporations and governmental agencies
8 within Prince George's County an insurance fund which shall be
9 known as the Risk Management Fund for Prince George's County.
10 The Risk Management Fund shall compensate for injury to persons
11 or damage to property resulting from negligence or other
12 wrongful acts of public officials, employees and agents of the
13 County and other Risk Management Fund Members, and to provide
14 protection, against physical loss or damage to property of the
15 County and other Risk Management Fund Members caused by fire,
16 explosion, theft, vandalism, malicious mischief, riot, civil
17 disturbance, flood and natural disasters and protection for
18 officials, employees and agents acting within the scope of their
19 duties.

20 (b) The Risk Management Fund shall provide protection to
21 insure the County and other Risk Management Fund members against
22 liability for personal injury and property damage resulting from
23 negligence, deprivation of civil rights, malpractice or any
24 other type of civil or tortious actions resulting from the
25 negligence or wrongful act of any public official, agent or
26 employee within the scope of official duties. The Risk
27 Management Fund shall also provide for comprehensive general
28 liability, comprehensive property damage, Workmen's
29 Compensation, and comprehensive automobile liability.

30 (c) The Risk Management Fund may provide insurance
31 protection by purchase of insurance from insurance companies
32 authorized to do business in the State of Maryland or by a

1 program of self- insurance funded by the County and other Risk
2 Management Fund Members or by a combination of purchased
3 insurance and self-insurance. Provided, however, that no
4 insurance coverage or combination of purchased insurance and
5 self-insurance shall be in excess of the maximum limitations of
6 liability as conferred upon the County or any Risk Management
7 Fund member by Charter or other statutory provision unless the
8 Risk Management Fund, at the request of a member, acquires
9 additional protection insuring risks in excess of such Charter
10 or statutory limitation.

11 (d) In no event shall any coverage provided by the Risk
12 Management Fund for injuries to persons and property of others
13 exceed \$250,000 per person, per occurrence. In no event shall
14 any coverage provided by the Risk Management Fund exceed
15 \$100,000, per occurrence, for the Board of Trustees of Prince
16 George's Community College and the Board of Education of Prince
17 George's County. Notwithstanding such limitations, in no event
18 shall any coverage provided by the Risk Management Fund to
19 members for injuries to persons and property of others be in
20 excess of the maximum limitation of liability as conferred upon
21 the County or other Risk Management Fund member by Charter,
22 State law or other statutory provision unless the Risk Management
23 Fund, at the request of a member, acquires additional protection
24 insuring risks in excess of such Charter or statutory
25 limitation.

26 (e) The Risk Management Fund is further authorized to
27 provide coverage for any other insurable risk or liability as
28 requested by a member so long as the member provides a
29 contribution actuarially sufficient to provide the coverage
30 requested.

31 Sec. 10-175. Membership agreements.

32 The Risk Management Fund is further authorized to cooperate

1 with and enter into written agreements with any municipal
2 corporation, governmental agency, board or commission
3 established by the County or the General Assembly of Maryland,
4 for the purpose of providing to such agency, board or
5 commission, the officials, agents as defined by the fund member,
6 employees or property thereof, coverage authorized by this
7 Division upon such terms and conditions consistent with this
8 Division as are deemed to be in the best interest of the
9 citizens of the County. Such agreements shall be consistent
10 with this Division 5 and applicable State law and shall set
11 forth the specific terms and conditions of membership in the
12 Fund.

13 Sec. 10-176. Management of the Fund.

14 (a) The Risk Management Fund shall be governed by a Risk
15 Management Committee which shall be comprised of one voting
16 representative from each of the following members: Prince
17 George's County, the Board of Education of Prince George's
18 County, the Board of Trustees of Prince George's Community
19 College, and the Prince George's County Memorial Library,
20 pursuant to Section 10-191 of this Division.

21 (b) The County Attorney shall provide legal counsel, advice
22 and representation to the Risk Management Fund and each of its
23 members unless a member elects to provide for its own legal
24 representation. The County Attorney, or the member's attorney,
25 in the event that legal representation is provided by a member,
26 shall provide for the defense of claims made against each
27 member, its public officials, employees and agents for which
28 coverage has been extended by the Risk Management Fund. The
29 Risk Management Fund shall pay the cost of all legal
30 representation, at a uniform hourly rate of remuneration
31 established by the bylaws and shall charge the account of the
32 member represented. The County Attorney, upon request, shall

1 consult with and advise counsel for each member, if any, on all
2 matters pertaining to a claim against the member.

3 (c) Each member's account shall be charged the pro rata
4 share of the operating expenses of the Fund as established by
5 the Bylaws and shall be charged the actual expenses of any
6 specialized services requested by the member or uniquely
7 incurred for its benefit.

8 Sec. 10-177. Powers and Duties of the Risk Management Fund.

9 The Risk Management Fund is authorized, by and through the
10 Risk Management Committee acting with the concurrence of the
11 affected member, to defend, compromise and pay claims asserted
12 against members, provide protection against physical loss or
13 damage to the property of members, employ actuaries, adjusters
14 and other experts, provide for the direct and indirect expenses
15 of legal representation and defense, adopt Bylaws and to possess
16 such other necessary powers as required to provide for the
17 effective and efficient administration and operation of a
18 self-insurance and risk management program.

19 Sec. 10-178. Voting.

20 A simple majority of the members of the Risk Management
21 Committee shall be required to decide all issues submitted to
22 the Committee except the adoption and amendment of Bylaws,
23 provided that no claim shall be compromised without the
24 affirmative vote of the Member or Members against which the
25 claim is asserted.

26 Sec. 10-179. Withdrawal from the Fund.

27 (a) Any member may withdraw from the Risk Management Fund
28 upon six (6) months' written notice to the Chairman, Risk
29 Management Committee. The effective date of such withdrawal
30 shall be at the close of the fiscal year ending no less than six
months after such notice has been made.

1 (b) Upon withdrawal, the Risk Management Fund shall pay to
2 the withdrawing member the sum of unexpended encumbered
3 reserves, ninety percent (90%) of the unencumbered reserves and
4 the interest earned with respect to such encumbered and
5 unencumbered reserves.

6 (c) Liability for incurred but unsettled claims at the
7 date of withdrawal shall vest in the withdrawing member. The
8 Risk Management Fund shall not be liable for any claim which
9 arises after the date of withdrawal.

10 (d) Payments made to a withdrawing member shall be subject
11 to adjustment to reflect the actual account balances as
12 determined by audit. Any deficiency owed by the withdrawing
13 member or any account balance owed by the Risk Management Fund
14 shall be paid within thirty (30) days after the final accounting
15 of the Risk Management Fund is rendered.

16 Sec. 10-180. Financing the Risk Management Fund.

17 Subject to appropriations contained in the approved annual
18 budget, each member of the Risk Management Fund shall be
19 required to pay into the Risk Management Fund a sum of money
20 determined by the Risk Management Committee to be sufficient to
21 provide for its contribution to the Risk Management Fund which
22 will be computed by considering the premium cost, claim expense,
23 operating expense, interest income and the maintenance of a
24 reserve fund. The contribution shall reflect the principles of
25 incurred claims accounting as indicated by periodic actuarial
26 evaluations of the Risk Management Fund. Accrued interest shall
27 be apportioned among and credited to the unencumbered reserve
28 and encumbered reserve accounts of each member. The Director of
29 Finance shall be responsible for investing the money of the Risk
30 Management Fund in accounts and securities as allowed by law.

31 Sec. 10-181. Bylaws.

32 (a) The Risk Management Committee shall establish Bylaws

1 for the conduct of business of the Risk Management Fund.

2 (b) The Bylaws shall be adopted and amended by the
3 affirmative vote of at least two-thirds of the members of the
4 Risk Management Committee.

5 Sec. 10-181.1. Persons covered.

6 (a) In any suit or claim brought against an officer, agent
7 or employee the Risk Management Fund shall extend coverage to
8 such officer, employee or agent if:

9 (i) The action was taken in performance of his duties or
10 within his authorized official capacity as determined by a court
11 of competent jurisdiction or determined by the Risk Management
12 Committee;

13 (ii) The action of the officer, employee or agent was
14 without malice; and-

15 (iii) The officer, employee or agent shall cooperate with
16 counsel for the Risk Management Fund and assist in the conduct
17 of suits and enforcement of any right of contribution or
18 indemnity against any person or organization who may be liable
19 to such officer, employee or agent. The officer, employee or
20 agent shall attend hearings, depositions and trials and assist
21 in securing and giving evidence as required by counsel for the
22 Risk Management Fund. Failure to cooperate with counsel for the
23 Risk Management Fund that prejudices the Risk Management Fund
24 shall be grounds to deny coverage to an officer, employee or
25 agent at the discretion of the Risk Management Committee.

26 (b) In the case of a claim arising from damages alleged to
27 have been caused as a result of the ownership, possession, cus-
28 tody, maintenance or use of a dog, utilized for police or patrol
29 purposes, the member responsible for such dog shall be extended
30 coverage.

31 (c) In the case of a claim against the driver of a motor
32 vehicle insured by the Risk Management Fund, the driver shall be

1 covered if the driver had express or implied authority to use
2 the motor vehicle at the time of the incident giving rise to the
3 claim. The fact that the driver may have exceeded the scope of
4 his authority shall not relieve the fund from extending
5 coverage.

6 (d) The limitations of this Section shall not limit any
7 coverage provided by the Risk Management Fund to a member
8 pursuant to Section 10-174(e).

9 Sec. 10-181.2. No Waiver of any immunity.

10 No provision of this Division shall constitute or be
11 interpreted as a waiver of the right of any member of the Risk
12 Management Fund or of such members officers, employees or agents
13 to raise the defense of sovereign or governmental immunity, or
14 charitable immunity, or public official immunity or other
15 immunity or defense to which such member or its officers,
16 employees or agents is entitled.

17 Sec. 10-181.3. Definitions.

18 As used in and for the purposes of this Division, the
19 following words and phrases shall have the meaning assigned to
20 them therein:

21 (a) The words "personal injury," "property damage" and
22 "wrongful acts" as those words are defined by common usage in
23 the commercial insurance industry, provided however, that the
24 Risk Management Committee, by unanimous vote, may enlarge the
25 scope of these words in order to pay a claim asserted against a
26 member when payment of such a claim is deemed to be in the best
27 interest of the citizens of the County.

28 (b) The word "employee" as used in this Division shall
29 mean any duly elected or appointed official, member, trustee,
30 full-time or part-time employee, recognized volunteer or any
31 other person employed by or acting on behalf of any Risk
32 Management Fund member, including such person when acting in the

1 capacity of trustee, officer, employee or agent of any trust or
2 pension plan created by a Member.

3 (c) The words "operating expenses" shall mean the direct
4 and indirect cost of providing for the administration of the
5 Risk Management Fund, including but not limited to, professional
6 and consultants' fees, taxes, insurance premiums, investigation
7 expenses and the expenses of litigation.

8 (d) The words "encumbered reserve" shall mean the amount
9 identified and segregated to provide for the cost of paying or
10 settling a claim asserted against the Risk Management Fund. The
11 encumbrance of such funds shall not be construed to be an
12 admission of liability in any claim or legal action.

13 (e) The words "unencumbered reserve" shall mean the total
14 of member contributions less encumbered reserves less operating
15 expenses of the Risk Management Fund.

16 SECTION 3. BE IT FURTHER ENACTED that notwithstanding any
17 limitations placed upon accumulation of funds in the insurance
18 fund established by Chapter 445 of the 1966 Laws of Maryland,
19 the Risk Management Fund is authorized to accumulate an
20 unencumbered reserve not to exceed the sum of Ten Million
21 Dollars (10,000,000.00).

22 SECTION 4. BE IT FURTHER ENACTED that it is the
23 legislative intent of the Council that every subsection,
24 paragraph, sentence, clause, phrase, and word of this Act is to
25 be liberally construed; that the provisions of this Act are
26 declared to be severable; and, in the event that any subsection,
27 paragraph, subparagraph, sentence, clause, phrase, or word of
28 this Act is to be declared invalid or unconstitutional by a
29 court of competent jurisdiction, such invalidity or
30 unconstitutionality shall not affect the remaining words,
31 phrases, clauses, sentences, subparagraphs, paragraphs, or
32 subsections of this Act since the same would have been

1 enacted without the incorporation in this Act of any such
2 invalid or unconstitutional word, phrase, clause, sentence,
3 subparagraph, paragraph, or subsection.

4 SECTION 5. BE IT FURTHER ENACTED that this Act shall take
5 effect forty-five (45) calendar days after it becomes law.

6 Adopted this 31st day of May, 1983.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

9 BY: Frank P. Casula
10 Frank P. Casula
Chairman

11 ATTEST:

12 Jean M. Schmuhl
13 Jean M. Schmuhl, Clerk

APPROVED:

15 DATE: June 14, 1983

16 BY: Parris N. Glendening
17 Parris N. Glendening
County Executive

18 KEY: Underscoring indicates language added to existing law.
19 [Brackets] indicate material deleted from existing law.

22 TO BECOME EFFECTIVE 8/7/83