

1 A bill to be entitled
 2 An act relating to community behavioral health agencies;
 3 creating s. 624.4624, F.S.; authorizing certain nonprofit
 4 community mental health or substance abuse providers to
 5 form a self-insurance fund for certain purposes; providing
 6 operating requirements of the self-insurance fund;
 7 providing certain application exceptions for such fund;
 8 amending s. 768.28, F.S.; providing that certain providers
 9 or vendors acting contractually on behalf of the
 10 Department of Children and Family Services, and their
 11 employees and agents, are agents of the state for purposes
 12 of waiver of sovereign immunity in tort actions under
 13 certain circumstances; requiring contracts to provide for
 14 indemnification of the state by such agents for certain
 15 liabilities up to certain limits; providing that such
 16 persons are not employees or agents for purposes of
 17 workers' compensation; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 624.4624, Florida Statutes, is created
 22 to read:

23 624.4624 Nonprofit community mental health and substance
 24 abuse provider self-insurance fund.--

25 (1) Notwithstanding any other provisions of law, any two
 26 or more nonprofit community mental health or substance abuse
 27 providers, which are members in good standing of the Florida
 28 Council for Community Mental Health or the Florida Council for

29 Behavioral Healthcare and are located in this state, may form a
 30 self-insurance fund for the purpose of pooling and spreading
 31 liabilities of its group members in any property or casualty
 32 risk or surety insurance or securing the payment of benefits
 33 under chapter 440, provided the nonprofit community mental
 34 health and substance abuse provider self-insurance fund created
 35 must:

36 (a) Have annual normal premiums in excess of \$5 million.

37 (b) Maintain a continuing program of excess insurance
 38 coverage and reserve evaluation to protect the financial
 39 stability of the fund in an amount and manner determined by a
 40 qualified and independent actuary.

41 (c) Submit to the office annually an audited fiscal year-
 42 end financial statement by an independent certified public
 43 accountant within 6 months after the end of the fiscal year.

44 (d) Have a governing body which is comprised entirely of
 45 community mental health and substance abuse provider officials.

46 (2) A nonprofit community mental health and substance
 47 abuse provider self-insurance fund that meets the requirements
 48 of this section is not subject to s. 624.4621 and is not
 49 required to file any report with the department under s.
 50 440.38(2)(b) required of group self-insurer funds qualified
 51 under s. 624.4621. If any of the requirements of this section
 52 are not met, the nonprofit mental health and substance abuse
 53 provider self-insurance fund is subject to the requirements of
 54 s. 624.4621.

55 Section 2. Subsection (21) is added to section 768.28,
 56 Florida Statutes, to read:

57 768.28 Waiver of sovereign immunity in tort actions;
 58 recovery limits; limitation on attorney fees; statute of
 59 limitations; exclusions; indemnification; risk management
 60 programs.--

61 (21)(a) Solely with respect to services to individuals in
 62 need of detoxification and services through an addictions
 63 receiving facility under chapter 397 or mental health services
 64 under chapter 394, providers or vendors, or any of their
 65 employees or agents, that have contractually agreed to act on
 66 behalf of the state as agents of the Department of Children and
 67 Family Services to provide such services are agents of the state
 68 for purposes of this section while acting within the scope of
 69 and pursuant to guidelines established in the contract or by
 70 rule. A contract must provide for the indemnification of the
 71 state by the agent for any liabilities incurred up to the limits
 72 set out in this chapter.

73 (b) This subsection does not designate a person who
 74 provides contracted services to the Department of Children and
 75 Family Services as an employee or agent of the state for
 76 purposes of chapter 440.

77 Section 3. This act shall take effect July 1, 2005.