

§ 58-23-30. Insolvency or impairment of pool.

(a) If, as a result of the annual audit or an examination by the Commissioner, it appears that the assets of a pool are insufficient to enable the pool to discharge its legal liabilities and other obligations, the Commissioner must notify the administrator and the board of trustees of the pool of the deficiency and his list of recommendations to abate the deficiency, including a recommendation not to add any new members until the deficiency is abated. If the pool fails to comply with the recommendations within 30 days after the date of the notice, the Commissioner may apply to the Superior Court of Wake County for an order requiring the pool to abate the deficiency and authorizing the Commissioner to appoint one or more special deputy commissioners, counsel, clerks, or assistants to oversee the implementation of the Court's order. The compensation and expenses of such persons shall be fixed by the Commissioner, subject to the approval of the Court, and shall be paid out of the funds or assets of the pool.

(b) If a pool is determined to be insolvent, financially impaired, or is otherwise found to be unable to discharge its legal liabilities and other obligations, each pool contract will provide that the members of the pool shall be assessed on a pro rata basis as calculated by the amount of each member's average annual contribution in order to satisfy the amount of deficiency. Members of a pool may, by contract, agree to limit the assessment to the amount of each member's annual contribution to the pool. Such a contractual agreement shall not impair the authority granted the Commissioner by this section. (1985 (Reg. Sess., 1986), c. 1027, s. 26; 1987, c. 441, ss. 16, 17.)