
Business & Financial Services Committee

HB 1670

Brief Description: Addressing the regulation of self-insurance programs by the state risk manager.

Sponsors: Representatives Kirby, Bailey, Blake, Eddy, Rodne, Hurst and Springer.

Brief Summary of Bill

- Requires a joint local government self-insurance program to have an operating certificate.
- Requires operating certificates to be renewed annually.
- Provides the State Risk Manager with authority to oversee self-insurance programs.

Hearing Date: 2/8/11

Staff: Jon Hedegard (786-7127).

Background:

Self-insurance Programs.

Local government entities have the authority to:

- individually or jointly self-insure against risks;
- jointly purchase insurance or reinsurance; and
- contract for risk management, claims, and administrative services.

Subject to specified conditions, local government entities may enter into joint self-insurance programs with similar entities from other states.

A nonprofit corporation may form or join a self-insurance risk program for property and liability risks with one or more nonprofit corporations or with one or more local government entities.

Oversight.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Risk Management Division within the Office of Financial Management is responsible for the regulation of these programs. An entity or entities proposing self-insurance must submit a plan of management and operation to the State Risk Manager (SRM) and the State Auditor (Auditor) that provides specified information. If a program is approved by the SRM, there are ongoing reporting and oversight requirements. The programs are subject to audit by the Auditor.

The SRM must charge a fee in an amount necessary to cover the costs for the initial review and approval of a self-insurance program. The actual costs of subsequent reviews and investigations must be charged to the self-insurance program being reviewed or investigated.

If the SRM determines that a self-insurance is violating the law or is operating in an unsafe financial condition, the SRM may order the program to cease and desist from the violation or practice.

Every joint self-insurance program covering liability or property risks, excluding multistate programs, must provide for the contingent liability of participants in the program if assets of the program are insufficient to cover the program's liabilities.

The SRM has rule-making authority.

The programs are excluded from the definition of "insurer" under the Insurance Code and are not subject to the provisions of the Insurance Code.

Summary of Bill:

Operating Certificate Requirement.

An operating certificate issued by the SRM is required to operate a joint local government self-insurance program covering:

- property or liability risks; or
- a health and welfare benefits program.

An operating certificate is not required for an individual self-insurance program. However, an individual health and welfare benefits program must be approved by the SRM prior to starting operations.

Any entity or entities proposing to create a joint self-insurance program must apply to the SRM for an initial operating certificate. Any joint self-insurance program currently in operation must apply for an initial operating certificate at least four months before the expiration of the program's fiscal year in 2013.

An operating certificate is subject to an annual renewal based on the joint self-insurance program's fiscal year end. Operating certificates continue in force until revoked or not renewed.

Applications and Approval.

Applications to create or to renew a joint self-insurance program must contain:

- all articles of incorporation, bylaws, or interlocal agreements;
- copies of all the insurance coverage documents;
- a description of the program structure and financial details;

- an actuarial analysis;
- a list of contractors and service providers; and
- other information required by rule of the SRM.

If the SRM finds that a joint self-insurance program has met the all applicable requirements, the SRM must issue an operating certificate. In lieu of denial, the SRM may issue a conditional operating certificate. A conditional operating certificate may not exceed one year and a consecutive conditional operating certificate may not be issued.

Denial, Refusal to Renew, and Revocation of Operating Certificates.

The SRM may deny, refuse to renew, or revoke a joint self-insurance program's operating certificate if the program:

- fails to submit an application with all required information;
- fails to meet the requirements of the chapter and rules adopted by the SRM;
- is operating in an unsafe financial condition;
- fails to comply with an order of the SRM or an operating certificate condition; or
- fails to pay its assessments and other fees.

Powers of the SRM.

The SRM may:

- bring actions to collect sums due to the state;
- review or investigate any third-party administrator of a joint self-insurance program;
- contact insurers or reinsurers to verify insurance coverage or receivables;
- contact members to verify receivables or reassessments owed by any member;
- order a program to cease and desist from a violation or practice that resulted in an unsafe financial condition;
- deny or revoke an operating certificate; and
- engage in other actions that are necessary to terminate the self-insurance program.

Review of Operations.

The SRM may review the operations, transactions, and records of any authorized joint local government self-insured property and liability program and any individual and joint local government self-insurance health and welfare program at any time. The SRM must review a program at least once every three years. The SRM or his or her employee must be given records or access to records. Failure to produce information within 30 days of a written request may result in the denial or revocation of an operating certificate or an order to cease and desist.

Revocation.

The SRM must give a joint self-insurance program written notice at least less than 30 days before a revocation is to become effective. The revocation decision may be appealed.

Termination of a Program.

If an operating certificate is not renewed or revoked, the SRM must terminate the operation of the joint self-insurance program. The SRM may appoint a trustee. The SRM or trustee must immediately take charge of a local government self-insurance program. All termination costs must be paid by the program. The SRM or trustee may:

- hire financial experts;
- hire and fire employees;

- terminate contracts;
- act on behalf of the board and the members to wind down the program;
- provide insurance options for the members to cover outstanding claims and lawsuits; and
- determine the amount of reassessments to members to cover the final costs after termination of the joint self-insurance program.

Administrative hearings.

The Director of the Office of Financial Management (Director) or the Director's designee may hold a hearing for any purpose within the scope of this chapter. The Director must hold a hearing:

- if required by law; or
- if any person aggrieved by any act or failure of the SRM requests a hearing in writing.

Rules.

The SRM must adopt rules regarding standards for qualifications and the selection of trustees to terminate the operations of any joint self-insurance program.

Immunity.

No cause of action may arise nor may any liability be imposed against the SRM, his or her employees, authorized representatives, or appointed trustees, for statements made or conduct performed in good faith while carrying out this chapter.

Appropriation: None.

Fiscal Note: Requested on 02/04/11.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.