

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2352

Chapter 332, Laws of 2002

57th Legislature
2002 Regular Session

RISK MANAGEMENT DIVISION

EFFECTIVE DATE: 7/1/02

Passed by the House March 9, 2002
Yeas 94 Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 5, 2002
Yeas 45 Nays 0

BRAD OWEN
President of the Senate

Approved April 3, 2002

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2352** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

FILED

April 3, 2002 - 10:40 a.m.

**Secretary of State
State of Washington**

HOUSE BILL 2352

AS AMENDED BY THE SENATE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By Representatives Alexander, Lantz and Esser; by request of Governor Locke and Attorney General

Read first time 01/15/2002. Referred to Committee on State Government.

1 AN ACT Relating to transferring statewide risk management functions
2 from the department of general administration to the office of
3 financial management; amending RCW 43.19.025, 43.19.1935, 43.19.1936,
4 43.19.19362, 43.19.19367, 43.19.19369, 4.92.006, 4.92.040, 4.92.100,
5 4.92.110, 4.92.130, 4.92.150, 4.92.160, 4.92.210, 4.92.220, 4.92.230,
6 4.92.240, 4.92.270, 39.59.010, 43.41.110, and 48.62.021; reenacting and
7 amending RCW 43.19.1906; adding new sections to chapter 43.41 RCW;
8 creating new sections; recodifying RCW 43.19.1935, 43.19.1936,
9 43.19.19361, 43.19.19362, 43.19.19363, 43.19.19364, 43.19.19367,
10 43.19.19368, 43.19.19369, and 43.19.540; and providing an effective
11 date.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

13 NEW SECTION. **Sec. 1.** It is the intent of the legislature that
14 state risk management should have increased visibility at a policy
15 level in state government. This increased visibility can best be
16 accomplished by the transfer of the statewide risk management function
17 from the department of general administration to the office of
18 financial management. The legislature intends that this transfer will
19 result in increasing visibility for the management and funding of

1 statewide risk, increasing executive involvement in risk management
2 issues, and improving statewide risk management accountability.

3 NEW SECTION. **Sec. 2.** (1) The powers, duties, and functions of
4 statewide risk management are hereby transferred from the department of
5 general administration to the office of financial management.

6 (2)(a) All reports, documents, surveys, books, records, files,
7 papers, or written material in the possession of the department of
8 general administration relating to the risk management office shall be
9 delivered to the custody of the office of financial management. All
10 cabinets, furniture, office equipment, motor vehicles, and other
11 tangible property employed by the risk management office in the
12 department of general administration shall be made available to the
13 office of financial management. All funds, credits, or other assets
14 held by the risk management office in the department of general
15 administration shall be assigned to the office of financial management.

16 (b) If any question arises as to the transfer of any personnel,
17 funds, books, documents, records, papers, files, equipment, or other
18 tangible property used or held in the exercise of the powers and the
19 performance of the duties and functions transferred, the director of
20 financial management shall make a determination as to the proper
21 allocation and certify the same to the state agencies concerned.

22 (c) Any appropriations made in connection with the powers, duties,
23 and functions transferred by this act shall, on the effective date of
24 this section, be transferred and credited to the office of financial
25 management.

26 (3) All employees of the risk management office in the department
27 of general administration are transferred to the jurisdiction of the
28 office of financial management. All employees classified under chapter
29 41.06 RCW, the state civil service law, are assigned to the office of
30 financial management to perform their usual duties upon the same terms
31 as formerly, without any loss of rights, subject to any action that may
32 be appropriate thereafter in accordance with the laws and rules
33 governing state civil service.

34 (4) All rules and all pending business before the risk management
35 office of the department of general administration shall be continued
36 and acted upon by the office of financial management. All existing
37 contracts and obligations shall remain in full force and shall be
38 performed by the office of financial management.

1 (5) The transfer of the powers, duties, functions, and personnel of
2 the risk management office of the department of general administration
3 shall not affect the validity of any act performed before the effective
4 date of this section.

5 (6) If apportionments of budgeted funds are required because of the
6 transfers directed by this section, the director of financial
7 management shall certify the apportionments to the agencies affected,
8 the state auditor, and the state treasurer. Each of these shall make
9 the appropriate transfer and adjustments in funds and appropriation
10 accounts and equipment records in accordance with the certification.

11 **Sec. 3.** RCW 43.19.025 and 2001 c 292 s 2 are each amended to read
12 as follows:

13 The general administration services account is created in the
14 custody of the state treasurer and shall be used for all activities
15 previously budgeted and accounted for in the following internal service
16 funds: The motor transport account, the general administration
17 management fund, the general administration facilities and services
18 revolving fund, the central stores revolving fund, the surplus property
19 purchase revolving fund, (~~the risk management account,~~) and the
20 energy efficiency services account. Only the director or the
21 director's designee may authorize expenditures from the account. The
22 account is subject to the allotment procedures under chapter 43.88 RCW.

23 **Sec. 4.** RCW 43.19.1906 and 1999 sp.s. c 1 s 606, 1999 c 195 s 1,
24 and 1999 c 106 s 1 are each reenacted and amended to read as follows:

25 Insofar as practicable, all purchases and sales shall be based on
26 competitive bids, and a formal sealed bid procedure shall be used as
27 standard procedure for all purchases and contracts for purchases and
28 sales executed by the state purchasing and material control director
29 and under the powers granted by RCW 43.19.190 through 43.19.1939. This
30 requirement also applies to purchases and contracts for purchases and
31 sales executed by agencies, including educational institutions, under
32 delegated authority granted in accordance with provisions of RCW
33 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is
34 not necessary for:

35 (1) Emergency purchases made pursuant to RCW 43.19.200 if the
36 sealed bidding procedure would prevent or hinder the emergency from
37 being met appropriately;

1 (2) Purchases not exceeding thirty-five thousand dollars, or
2 subsequent limits as calculated by the office of financial management:
3 PROVIDED, That the state director of general administration shall
4 establish procedures to assure that purchases made by or on behalf of
5 the various state agencies shall not be made so as to avoid the thirty-
6 five thousand dollar bid limitation, or subsequent bid limitations as
7 calculated by the office of financial management: PROVIDED FURTHER,
8 That the state purchasing and material control director is authorized
9 to reduce the formal sealed bid limits of thirty-five thousand dollars,
10 or subsequent limits as calculated by the office of financial
11 management, to a lower dollar amount for purchases by individual state
12 agencies if considered necessary to maintain full disclosure of
13 competitive procurement or otherwise to achieve overall state
14 efficiency and economy in purchasing and material control. Quotations
15 from three thousand dollars to thirty-five thousand dollars, or
16 subsequent limits as calculated by the office of financial management,
17 shall be secured from at least three vendors to assure establishment of
18 a competitive price and may be obtained by telephone or written
19 quotations, or both. The agency shall invite at least one quotation
20 each from a certified minority and a certified women-owned vendor who
21 shall otherwise qualify to perform such work. Immediately after the
22 award is made, the bid quotations obtained shall be recorded and open
23 to public inspection and shall be available by telephone inquiry. A
24 record of competition for all such purchases from three thousand
25 dollars to thirty-five thousand dollars, or subsequent limits as
26 calculated by the office of financial management, shall be documented
27 for audit purposes. Purchases up to three thousand dollars may be made
28 without competitive bids based on buyer experience and knowledge of the
29 market in achieving maximum quality at minimum cost;

30 (3) Purchases which are clearly and legitimately limited to a
31 single source of supply and purchases involving special facilities,
32 services, or market conditions, in which instances the purchase price
33 may be best established by direct negotiation;

34 (4) Purchases of insurance and bonds by the risk management
35 ((office)) division under RCW 43.19.1935 (as recodified by this act);

36 (5) Purchases and contracts for vocational rehabilitation clients
37 of the department of social and health services: PROVIDED, That this
38 exemption is effective only when the state purchasing and material
39 control director, after consultation with the director of the division

1 of vocational rehabilitation and appropriate department of social and
2 health services procurement personnel, declares that such purchases may
3 be best executed through direct negotiation with one or more suppliers
4 in order to expeditiously meet the special needs of the state's
5 vocational rehabilitation clients;

6 (6) Purchases by universities for hospital operation or biomedical
7 teaching or research purposes and by the state purchasing and material
8 control director, as the agent for state hospitals as defined in RCW
9 72.23.010, and for health care programs provided in state correctional
10 institutions as defined in RCW 72.65.010(3) and veterans' institutions
11 as defined in RCW 72.36.010 and 72.36.070, made by participating in
12 contracts for materials, supplies, and equipment entered into by
13 nonprofit cooperative hospital group purchasing organizations;

14 (7) Purchases for resale by institutions of higher education to
15 other than public agencies when such purchases are for the express
16 purpose of supporting instructional programs and may best be executed
17 through direct negotiation with one or more suppliers in order to meet
18 the special needs of the institution;

19 (8) Purchases by institutions of higher education not exceeding
20 thirty-five thousand dollars: PROVIDED, That for purchases between
21 three thousand dollars and thirty-five thousand dollars quotations
22 shall be secured from at least three vendors to assure establishment of
23 a competitive price and may be obtained by telephone or written
24 quotations, or both. For purchases between three thousand dollars and
25 thirty-five thousand dollars, each institution of higher education
26 shall invite at least one quotation each from a certified minority and
27 a certified women-owned vendor who shall otherwise qualify to perform
28 such work. A record of competition for all such purchases made from
29 three thousand to thirty-five thousand dollars shall be documented for
30 audit purposes; and

31 (9) Negotiation of a contract by the department of transportation,
32 valid until June 30, 2001, with registered tow truck operators to
33 provide roving service patrols in one or more Washington state patrol
34 tow zones whereby those registered tow truck operators wishing to
35 participate would cooperatively, with the department of transportation,
36 develop a demonstration project upon terms and conditions negotiated by
37 the parties.

38 Beginning on July 1, 1995, and on July 1 of each succeeding odd-
39 numbered year, the dollar limits specified in this section shall be

1 adjusted as follows: The office of financial management shall
2 calculate such limits by adjusting the previous biennium's limits by
3 the appropriate federal inflationary index reflecting the rate of
4 inflation for the previous biennium. Such amounts shall be rounded to
5 the nearest one hundred dollars. However, the three thousand dollar
6 figure in subsections (2) and (8) of this section may not be adjusted
7 to exceed five thousand dollars.

8 **Sec. 5.** RCW 43.19.1935 and 1998 c 105 s 8 are each amended to read
9 as follows:

10 As a means of providing for the procurement of insurance and bonds
11 on a volume rate basis, the director (~~(of general administration~~
12 ~~through the risk management office)) shall purchase or contract for the
13 needs of state agencies in relation to all such insurance and bonds:
14 PROVIDED, That authority to purchase insurance may be delegated to
15 state agencies. Insurance in force shall be reported to the risk
16 management (~~(office))~~ division periodically under rules established by
17 the director. Nothing contained in this section shall prohibit the use
18 of licensed agents or brokers for the procurement and service of
19 insurance.~~

20 The amounts of insurance or bond coverage shall be as fixed by law,
21 or if not fixed by law, such amounts shall be as fixed by the director
22 (~~(of the department of general administration)~~).

23 The premium cost for insurance acquired and bonds furnished shall
24 be paid from appropriations or other appropriate resources available to
25 the state agency or agencies for which procurement is made, and all
26 vouchers drawn in payment therefor shall bear the written approval of
27 the risk management (~~(office))~~ division prior to the issuance of the
28 warrant in payment therefor. Where deemed advisable the premium cost
29 for insurance and bonds may be paid by the (~~(general administration~~
30 ~~services))~~ risk management administration account which shall be
31 reimbursed by the agency or agencies for which procurement is made.

32 **Sec. 6.** RCW 43.19.1936 and 1985 c 188 s 5 are each amended to read
33 as follows:

34 The director (~~(of general administration)~~), through the risk
35 management (~~(office))~~ division, may purchase, or contract for the
36 purchase of, property and liability insurance for any municipality upon
37 request of the municipality.

1 As used in this section, "municipality" means any city, town,
2 county, special purpose district, municipal corporation, or political
3 subdivision of the state of Washington.

4 **Sec. 7.** RCW 43.19.19362 and 1998 c 245 s 55 are each amended to
5 read as follows:

6 There is hereby created a risk management ~~((office))~~ division
7 within the ~~((department of general administration))~~ office of financial
8 management. The director ~~((of general administration))~~ shall implement
9 the risk management policy in RCW 43.19.19361 (as recodified by this
10 act) through the risk management ~~((office))~~ division. The director
11 ~~((of general administration))~~ shall appoint a risk manager to supervise
12 the risk management ~~((office))~~ division. The risk management
13 ~~((office))~~ division shall make recommendations when appropriate to
14 state agencies on the application of prudent safety, security, loss
15 prevention, and loss minimization methods so as to reduce or avoid risk
16 or loss.

17 **Sec. 8.** RCW 43.19.19367 and 1988 c 281 s 6 are each amended to
18 read as follows:

19 The director ~~((of general administration))~~, through the risk
20 management ~~((office))~~ division, shall receive and enforce bonds posted
21 pursuant to RCW 39.59.010 (3) and (4).

22 **Sec. 9.** RCW 43.19.19369 and 1989 c 419 s 11 are each amended to
23 read as follows:

24 The ~~((department of general administration))~~ office shall conduct
25 periodic actuarial studies to determine the amount of money needed to
26 adequately fund the liability account.

27 **Sec. 10.** RCW 4.92.006 and 1989 c 419 s 2 are each amended to read
28 as follows:

29 As used in this chapter:

30 (1) "~~((Department))~~ Office" means the ~~((department of general~~
31 administration)) office of financial management.

32 (2) "Director" means the director of financial management.

33 (3) "Risk management division" means the division of the office of
34 financial management that carries out the powers and duties under this

1 chapter relating to claim filing, claims administration, and claims
2 payment.

3 (4) "Risk manager" means the person supervising the ~~((office of))~~
4 risk management ~~((in the department of general administration))~~
5 division.

6 **Sec. 11.** RCW 4.92.040 and 1999 c 163 s 3 are each amended to read
7 as follows:

8 (1) No execution shall issue against the state on any judgment.

9 (2) Whenever a final judgment against the state is obtained in an
10 action on a claim arising out of tortious conduct, the claim shall be
11 paid from the liability account.

12 (3) Whenever a final judgment against the state shall have been
13 obtained in any other action, the clerk of the court shall make and
14 furnish to the risk management ~~((office))~~ division a duly certified
15 copy of such judgment; the risk management ~~((office))~~ division shall
16 thereupon audit the amount of damages and costs therein awarded, and
17 the same shall be paid from appropriations specifically provided for
18 such purposes by law.

19 (4) Final judgments for which there are no provisions in state law
20 for payment shall be transmitted by the risk management ~~((office))~~
21 division to the senate and house of representatives committees on ways
22 and means as follows:

23 (a) On the first day of each session of the legislature, the risk
24 management ~~((office))~~ division shall transmit judgments received and
25 audited since the adjournment of the previous session of the
26 legislature.

27 (b) During each session of legislature, the risk management
28 ~~((office))~~ division shall transmit judgments immediately upon
29 completion of audit.

30 (5) All claims, other than judgments, made to the legislature
31 against the state of Washington for money or property, shall be
32 accompanied by a statement of the facts on which such claim is based
33 and such evidence as the claimant intends to offer in support of the
34 claim and shall be filed with the risk management ~~((office))~~ division,
35 which shall retain the same as a record. All claims of two thousand
36 dollars or less shall be approved or rejected by the risk management
37 ~~((office))~~ division, and if approved shall be paid from appropriations
38 specifically provided for such purpose by law. Such decision, if

1 adverse to the claimant in whole or part, shall not preclude the
2 claimant from seeking relief from the legislature. If the claimant
3 accepts any part of his or her claim which is approved for payment by
4 the risk management ((office)) division, such acceptance shall
5 constitute a waiver and release of the state from any further claims
6 relating to the damage or injury asserted in the claim so accepted.
7 The risk management ((office)) division shall submit to the house and
8 senate committees on ways and means, at the beginning of each regular
9 session, a comprehensive list of all claims paid pursuant to this
10 subsection during the preceding year. For all claims not approved by
11 the risk management ((office)) division, the risk management ((office))
12 division shall recommend to the legislature whether such claims should
13 be approved or rejected. Recommendations shall be submitted to the
14 senate and house of representatives committees on ways and means not
15 later than the thirtieth day of each regular session of the
16 legislature. Claims which cannot be processed for timely submission of
17 recommendations shall be held for submission during the following
18 regular session of the legislature. The recommendations shall include,
19 but not be limited to:

20 (a) A summary of the facts alleged in the claim, and a statement as
21 to whether these facts can be verified by the risk management
22 ((office)) division;

23 (b) An estimate by the risk management ((office)) division of the
24 value of the loss or damage which was alleged to have occurred;

25 (c) An analysis of the legal liability, if any, of the state for
26 the alleged loss or damage; and

27 (d) A summary of equitable or public policy arguments which might
28 be helpful in resolving the claim.

29 ~~((5)-(6))~~ (6) The legislative committees to whom such claims
30 are referred shall make a transcript, recording, or statement of the
31 substance of the evidence given in support of such a claim. If the
32 legislature approves a claim the same shall be paid from appropriations
33 specifically provided for such purpose by law.

34 ~~((6)-(7))~~ (7) Subsections (3) through ~~((5))~~ (6) of this
35 section do not apply to judgments or claims against the state housing
36 finance commission created under chapter 43.180 RCW.

37 **Sec. 12.** RCW 4.92.100 and 1986 c 126 s 7 are each amended to read
38 as follows:

1 All claims against the state for damages arising out of tortious
2 conduct shall be presented to and filed with the risk management
3 ((office)) division. All such claims shall be verified and shall
4 accurately describe the conduct and circumstances which brought about
5 the injury or damage, describe the injury or damage, state the time and
6 place the injury or damage occurred, state the names of all persons
7 involved, if known, and shall contain the amount of damages claimed,
8 together with a statement of the actual residence of the claimant at
9 the time of presenting and filing the claim and for a period of six
10 months immediately prior to the time the claim arose. If the claimant
11 is incapacitated from verifying, presenting, and filing the claim or if
12 the claimant is a minor, or is a nonresident of the state, the claim
13 may be verified, presented, and filed on behalf of the claimant by any
14 relative, attorney, or agent representing the claimant.

15 With respect to the content of such claims this section shall be
16 liberally construed so that substantial compliance will be deemed
17 satisfactory.

18 **Sec. 13.** RCW 4.92.110 and 1989 c 419 s 14 are each amended to read
19 as follows:

20 No action shall be commenced against the state for damages arising
21 out of tortious conduct until sixty days have elapsed after the claim
22 is presented to and filed with the risk management ((office)) division.
23 The applicable period of limitations within which an action must be
24 commenced shall be tolled during the sixty-day period.

25 **Sec. 14.** RCW 4.92.130 and 1999 c 163 s 1 are each amended to read
26 as follows:

27 A liability account in the custody of the treasurer is hereby
28 created as a nonappropriated account to be used solely and exclusively
29 for the payment of liability settlements and judgments against the
30 state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of
31 its officers, employees, and volunteers and all related legal defense
32 costs.

33 (1) The purpose of the liability account is to: (a) Expeditiously
34 pay legal liabilities and defense costs of the state resulting from
35 tortious conduct; (b) promote risk control through a cost allocation
36 system which recognizes agency loss experience, levels of self-

1 retention, and levels of risk exposure; and (c) establish an
2 actuarially sound system to pay incurred losses, within defined limits.

3 (2) The liability account shall be used to pay claims for injury
4 and property damages and legal defense costs exclusive of agency-
5 retained expenses otherwise budgeted.

6 (3) No money shall be paid from the liability account, except for
7 defense costs, unless all proceeds available to the claimant from any
8 valid and collectible liability insurance shall have been exhausted and
9 unless:

10 (a) The claim shall have been reduced to final judgment in a court
11 of competent jurisdiction; or

12 (b) The claim has been approved for payment.

13 (4) The liability account shall be financed through annual premiums
14 assessed to state agencies, based on sound actuarial principles, and
15 shall be for liability coverage in excess of agency-budgeted self-
16 retention levels.

17 (5) Annual premium levels shall be determined by the risk manager,
18 with the consultation and advice of the risk management advisory
19 committee (~~((and concurrence from the office of financial management))~~).
20 An actuarial study shall be conducted to assist in determining the
21 appropriate level of funding.

22 (6) Disbursements for claims from the liability account shall be
23 made to the claimant, or to the clerk of the court for judgments, upon
24 written request to the state treasurer from the risk manager.

25 (7) The director (~~((of the office of financial management))~~) may
26 direct agencies to transfer moneys from other funds and accounts to the
27 liability account if premiums are delinquent.

28 (8) The liability account shall not exceed fifty percent of the
29 actuarial value of the outstanding liability as determined annually by
30 the (~~((office of))~~) risk management division. If the account exceeds the
31 maximum amount specified in this section, premiums may be adjusted by
32 the (~~((office of))~~) risk management division in order to maintain the
33 account balance at the maximum limits. If, after adjustment of
34 premiums, the account balance remains above the limits specified, the
35 excess amount (~~((will))~~) shall be prorated back to the appropriate funds.

36 **Sec. 15.** RCW 4.92.150 and 1989 c 403 s 4 are each amended to read
37 as follows:

1 After commencement of an action in a court of competent
2 jurisdiction upon a claim against the state, or any of its officers,
3 employees, or volunteers arising out of tortious conduct or pursuant to
4 42 U.S.C. Sec. 1981 et seq., or against a foster parent that the
5 attorney general is defending pursuant to RCW 4.92.070, or upon
6 petition by the state, the attorney general, with the prior approval of
7 the risk management ((office)) division and with the approval of the
8 court, following such testimony as the court may require, may
9 compromise and settle the same and stipulate for judgment against the
10 state, the affected officer, employee, volunteer, or foster parent.

11 **Sec. 16.** RCW 4.92.160 and 1999 c 163 s 4 are each amended to read
12 as follows:

13 Payment of claims and judgments arising out of tortious conduct or
14 pursuant to 42 U.S.C. Sec. 1981 et seq. shall not be made by any agency
15 or department of state government with the exception of the risk
16 management ((office)) division, and that ((office)) division shall
17 authorize and direct the payment of moneys only from the liability
18 account whenever:

19 (1) The head or governing body of any agency or department of state
20 or the designee of any such agency certifies to the risk management
21 ((office)) division that a claim has been settled; or

22 (2) The clerk of court has made and forwarded a certified copy of
23 a final judgment in a court of competent jurisdiction and the attorney
24 general certifies that the judgment is final and was entered in an
25 action on a claim arising out of tortious conduct or under and pursuant
26 to 42 U.S.C. Sec. 1981 et seq. Payment of a judgment shall be made to
27 the clerk of the court for the benefit of the judgment creditors. Upon
28 receipt of payment, the clerk shall satisfy the judgment against the
29 state.

30 **Sec. 17.** RCW 4.92.210 and 1989 c 419 s 3 are each amended to read
31 as follows:

32 (1) All liability claims arising out of tortious conduct or under
33 42 U.S.C. Sec. 1981 et seq. that the state of Washington or any of its
34 officers, employees, or volunteers would be liable for shall be filed
35 with the ((office of)) risk management((, department of general
36 administration, unless specifically delegated to other state agencies
37 under state statute)) division.

1 (2) A centralized claim tracking system shall be maintained to
2 provide agencies with accurate and timely data on the status of
3 liability claims. Information in this claim file, other than the claim
4 itself, shall be privileged and confidential.

5 (3) Standardized procedures shall be established for filing,
6 reporting, processing, and adjusting claims, which includes the use of
7 qualified claims management personnel.

8 (4) All claims ~~((will))~~ shall be reviewed by the ~~((office of))~~ risk
9 management division to determine an initial valuation, to delegate to
10 the appropriate office to investigate, negotiate, compromise, and
11 settle the claim, or to retain that responsibility on behalf of and
12 with the assistance of the affected state agency.

13 (5) All claims that result in a lawsuit ~~((will))~~ shall be forwarded
14 to the attorney general's office. Thereafter the attorney general and
15 the ~~((office of))~~ risk management division shall collaborate in the
16 investigation, denial, or settlement of the claim.

17 (6) Reserves shall be established for recognizing financial
18 liability and monitoring effectiveness. The valuation of specific
19 claims against the state shall be privileged and confidential.

20 (7) All settlements shall be approved by the responsible agencies,
21 or their designees, prior to settlement.

22 **Sec. 18.** RCW 4.92.220 and 1998 c 105 s 2 are each amended to read
23 as follows:

24 (1) The risk management administration account is created in the
25 custody of the state treasurer. All receipts from appropriations and
26 assessments shall be deposited into the account. Only the director or
27 the director's designee may authorize expenditures from the account.
28 The account is subject to allotment procedures under chapter 43.88 RCW,
29 but no appropriation is required for expenditures.

30 (2) The ~~((general administration services))~~ risk management
31 administration account is to be used for the payment of costs related
32 to:

33 (a) The appropriated administration of liability, property, and
34 vehicle claims, including investigation, claim processing, negotiation,
35 and settlement, and other expenses relating to settlements and
36 judgments against the state not otherwise budgeted; and

37 (b) The nonappropriated pass-through cost associated with the
38 purchase of liability and property insurance, including catastrophic

1 insurance, subject to policy conditions and limitations determined by
2 the risk manager.

3 ~~((2))~~ (3) The ~~((general administration services))~~ risk management
4 administration account's appropriation for risk management shall be
5 financed through a combination of direct appropriations and assessments
6 to state agencies.

7 **Sec. 19.** RCW 4.92.230 and 1989 c 419 s 7 are each amended to read
8 as follows:

9 (1) The director ~~((of the department of general administration))~~
10 shall establish an ongoing risk management advisory committee. Members
11 of the committee may include but shall not be limited to
12 ~~((representatives))~~ directors or deputy directors of state agencies,
13 presidents or vice-presidents of institutions of higher education, or
14 representatives of local government~~((7))~~ or the private sector.

15 (2) The director ~~((of the department of general administration))~~ or
16 his or her designee shall serve as chair. The committee shall meet
17 upon call of the chairperson and shall adopt rules for the conduct of
18 its business.

19 (3) The risk management advisory committee ~~((will))~~ shall provide
20 guidance in:

21 (a) Determining appropriate roles, responsibilities of the ~~((office~~
22 ~~of))~~ risk management division, and policies regarding statewide risk
23 management;

24 (b) Establishing premiums or other cost allocation systems;

25 (c) Determining appropriate programs and coverages for self-
26 insurance versus insurance;

27 (d) Developing risk retention pools; and

28 (e) Preparing recommendations for containment of risk exposures.

29 **Sec. 20.** RCW 4.92.240 and 1989 c 419 s 8 are each amended to read
30 as follows:

31 The director ~~((of general administration))~~ has the power to adopt
32 rules necessary to carry out the intent of this chapter.

33 **Sec. 21.** RCW 4.92.270 and 1989 c 419 s 15 are each amended to read
34 as follows:

35 The risk manager shall develop procedures for standard
36 indemnification agreements for state agencies to use whenever the

1 agency agrees to indemnify, or be indemnified by, any person or party.
2 The risk manager shall also develop guidelines for the use of
3 indemnification agreements by state agencies. On request of the risk
4 manager, an agency shall forward to the risk management ((office))
5 division for review and approval any contract or agreement containing
6 an indemnification agreement.

7 **Sec. 22.** RCW 39.59.010 and 1988 c 281 s 1 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Bond" means any agreement which may or may not be represented
12 by a physical instrument, including but not limited to bonds, notes,
13 warrants, or certificates of indebtedness, that evidences an obligation
14 under which the issuer agrees to pay a specified amount of money, with
15 or without interest, at a designated time or times either to registered
16 owners or bearers.

17 (2) "Local government" means any county, city, town, special
18 purpose district, political subdivision, municipal corporation, or
19 quasi-municipal corporation, including any public corporation,
20 authority, or other instrumentality created by such an entity.

21 (3) "Money market fund" means a mutual fund the portfolio which
22 consists of only bonds having maturities or demand or tender provisions
23 of not more than one year, managed by an investment advisor who has
24 posted with the risk management ((office)) division of the ((~~department~~
25 ~~of general administration~~)) office of financial management a bond or
26 other similar instrument in the amount of at least five percent of the
27 amount invested in the fund pursuant to RCW 39.59.030 (2) or (3).

28 (4) "Mutual fund" means a diversified mutual fund registered with
29 the federal securities and exchange commission and which is managed by
30 an investment advisor with assets under management of at least five
31 hundred million dollars and with at least five years' experience in
32 investing in bonds authorized for investment by this chapter and who
33 has posted with the risk management ((office)) division of the
34 ((~~department of general administration~~)) office of financial management
35 a bond or other similar instrument in the amount of at least five
36 percent of the amount invested in the fund pursuant to RCW
37 39.59.030(1).

1 (5) "State" includes a state, agencies, authorities, and
2 instrumentalities of a state, and public corporations created by a
3 state or agencies, authorities, or instrumentalities of a state.

4 **Sec. 23.** RCW 43.41.110 and 1981 2nd ex.s. c 4 s 13 are each
5 amended to read as follows:

6 The office of financial management shall:

7 (1) Provide technical assistance to the governor and the
8 legislature in identifying needs and in planning to meet those needs
9 through state programs and a plan for expenditures.

10 (2) Perform the comprehensive planning functions and processes
11 necessary or advisable for state program planning and development,
12 preparation of the budget, inter-departmental and inter-governmental
13 coordination and cooperation, and determination of state capital
14 improvement requirements.

15 (3) Provide assistance and coordination to state agencies and
16 departments in their preparation of plans and programs.

17 (4) Provide general coordination and review of plans in functional
18 areas of state government as may be necessary for receipt of federal or
19 state funds.

20 (5) Participate with other states or subdivisions thereof in
21 interstate planning.

22 (6) Encourage educational and research programs that further
23 planning and provide administrative and technical services therefor.

24 (7) Carry out the provisions of RCW 43.62.010 through 43.62.050
25 relating to the state census.

26 (8) Carry out the provisions of this chapter and chapter 4.92 RCW
27 relating to risk management.

28 (9) Be the official state participant in the federal-state
29 cooperative program for local population estimates and as such certify
30 all city and county special censuses to be considered in the allocation
31 of state and federal revenues.

32 ~~((+9))~~ (10) Be the official state center for processing and
33 dissemination of federal decennial or quinquennial census data in
34 cooperation with other state agencies.

35 ~~((+10))~~ (11) Be the official state agency certifying annexations,
36 incorporations, or disincorporations to the United States bureau of the
37 census.

1 (~~(11)~~) (12) Review all United States bureau of the census
2 population estimates used for federal revenue sharing purposes and
3 provide a liaison for local governments with the United States bureau
4 of the census in adjusting or correcting revenue sharing population
5 estimates.

6 (~~(12)~~) (13) Provide fiscal notes depicting the expected fiscal
7 impact of proposed legislation in accordance with chapter 43.88A RCW.

8 (~~(13)~~) (14) Be the official state agency to estimate and manage
9 the cash flow of all public funds as provided in chapter 43.88 RCW. To
10 this end, the office shall adopt such rules as are necessary to manage
11 the cash flow of public funds.

12 **Sec. 24.** RCW 48.62.021 and 1999 c 153 s 60 are each amended to
13 read as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

16 (1) "Local government entity" or "entity" means every unit of local
17 government, both general purpose and special purpose, and includes, but
18 is not limited to, counties, cities, towns, port districts, public
19 utility districts, water-sewer districts, school districts, fire
20 protection districts, irrigation districts, metropolitan municipal
21 corporations, conservation districts, and other political subdivisions,
22 governmental subdivisions, municipal corporations, and quasi-municipal
23 corporations.

24 (2) "Risk assumption" means a decision to absorb the entity's
25 financial exposure to a risk of loss without the creation of a formal
26 program of advance funding of anticipated losses.

27 (3) "Self-insurance" means a formal program of advance funding and
28 management of entity financial exposure to a risk of loss that is not
29 transferred through the purchase of an insurance policy or contract.

30 (4) "Health and welfare benefits" means a plan or program
31 established by a local government entity or entities for the purpose of
32 providing its employees and their dependents, and in the case of school
33 districts, its district employees, students, directors, or any of their
34 dependents, with health care, accident, disability, death, and salary
35 protection benefits.

36 (5) "Property and liability risks" includes the risk of property
37 damage or loss sustained by a local government entity and the risk of
38 claims arising from the tortious or negligent conduct or any error or

1 omission of the local government entity, its officers, employees,
2 agents, or volunteers as a result of which a claim may be made against
3 the local government entity.

4 (6) "State risk manager" means the (~~state~~) risk manager of the
5 (~~division of~~) risk management division within the (~~department of~~
6 ~~general administration~~) office of financial management.

7 NEW SECTION. Sec. 25. RCW 43.19.1935, 43.19.1936, 43.19.19361,
8 43.19.19362, 43.19.19363, 43.19.19364, 43.19.19367, 43.19.19368,
9 43.19.19369, and 43.19.540 are each recodified as sections in chapter
10 43.41 RCW.

11 NEW SECTION. Sec. 26. This act shall take effect July 1, 2002.
Passed the House March 9, 2002.
Passed the Senate March 5, 2002.
Approved by the Governor April 3, 2002.
Filed in Office of Secretary of State April 3, 2002.