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Financial Institutions &  
Insurance Committee

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HB 1840

**Brief Description:** Authorizing nonprofit corporations to participate in self-insurance risk pools.

**Sponsors:** Representatives Clibborn, Jarrett, Rockefeller, O'Brien, Skinner, Hankins, Edwards, Nixon, Pettigrew, Sullivan, Hunt, Moeller, Schindler, Mielke, Kenney, Haigh, Linville, Lovick, Chase, Darneille and Tom.

**Brief Summary of Bill**

- Authorizes nonprofit corporations to individually or jointly self-insure, or jointly purchase insurance or reinsurance, with local government entities and/or other nonprofit corporations.

**Hearing Date:** 2/25/03.

**Staff:** Thamas Osborn (786-7129).

**Background:**

Insurance issues affecting special needs transportation providers: Throughout the State, there are local nonprofit corporations that provide specialized transportation services to groups with special needs, such as seniors and disabled persons. In recent years, many of these nonprofit corporations have either experienced difficulty obtaining the liability insurance necessary to continue providing such transportation services or have seen dramatic increases in their insurance premiums. To solve this problem, some providers of special needs transportation services have proposed that they be allowed to enter into joint self-insurance arrangements with other such providers or local government entities. Current law does not allow such joint self-insurance arrangements.

Self-insurance by local government entities: Local government entities have the authority to individually or jointly self-insure against risks, jointly purchase insurance or reinsurance, and to contract for risk management, claims, and administrative services. In addition, subject to specified conditions, local government entities may enter into joint self-insurance programs with similar entities from other states. The Risk Manager (risk manager) within the Office

of Financial Management is responsible for the regulation of such self-insurance activities and may adopt rules governing their operation.

Local government entities must obtain prior approval from the risk manager before establishing a *joint* self-insurance program (insurance pool) covering property and liability risks involving two or more covered entities. Such *prior* approval is not required for the creation of an *individual* self-insurance program. However, entities that establish individual self-insurance programs must notify the risk manager of the existence of the program and comply with the regulatory and statutory standards governing the operation of such programs. In addition, self-insurance programs must file annual reports with the risk manager and the State Auditor containing specified information regarding their operation.

Local government entities are not authorized to establish joint self-insurance programs with nonprofit corporations.

Washington Nonprofit Corporation Act: The Washington Nonprofit Corporation Act (Act) governs the organization and practices of nonprofit corporations in Washington. The Act contains a lengthy list of "general powers" that may be exercised by nonprofits, covering such areas as contracts, lending money, pensions, and other corporate practices. These enumerated powers do not reference subject matter related to the creation of self-insurance programs.

Constitution of the State of Washington: Article VIII, section 5, of the State Constitution prohibits the State from loaning its credit to any individual, association, company, or corporation. A very similar provision " Article VIII, section 7 " prohibits cities, towns, or municipalities from giving or loaning its property, money or credit to any individual, association, company, or corporation, unless such action is necessary for the support of the poor or infirm. This section also prohibits local government entities from "directly or indirectly" owning the stocks or bonds of any association, company, or corporation.

**Summary of Bill:**

Nonprofit corporations are granted the same authority to self-insure as are local government entities and are empowered to create joint self-insurance arrangements with such entities. Specifically, nonprofit corporations are authorized to individually or jointly self-insure, or jointly purchase insurance or reinsurance, with local government entities and/or other nonprofit corporations. This authority is subject to the condition that local government entities and nonprofit corporations may not participate in any activity that violates Article VIII, section 5, of the State Constitution.

**Appropriation:** None.

**Fiscal Note:** Requested on February 21, 2003.

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