

HOUSE BILL REPORT

HB 2843

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to joint self-insurance programs for property and liability risks.

Brief Description: Addressing joint self-insurance programs for property and liability risks.

Sponsors: Representative Kirby.

Brief History:

Committee Activity:

Business & Financial Services: 1/24/18, 1/26/18 [DPS].

Brief Summary of Substitute Bill

- Authorizes qualifying state agencies to participate in local government joint self-insurance programs for property and liability risks.
- Defines "qualifying state agency" as a state agency, board, commission, or other entity of the state, other than a local government entity, with a biennial operating budget of no more than \$5 million.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kirby, Chair; Reeves, Vice Chair; Vick, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Barkis, Bergquist, Blake, Jenkin, McCabe, Santos and Stanford.

Staff: Peter Clodfelter (786-7127).

Background:

State law authorizes various types of joint self-insurance programs for different types of entities, which are generally regulated by the State Risk Manager (Risk Manager). There is a local government joint self-insurance program, as well as joint self-insurance programs for affordable housing entities, nonprofit corporations, and public benefit hospital entities.

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.

Separate from these programs, under authority of chapter 4.92 RCW regarding actions and claims against the state, the Risk Manager implements the Washington Self-Insurance Liability Program to finance the payment of tort claims against the state. The Risk Manager charges participating state agencies an assessment to participate, which is an amount of money based on a formula considering the previous six years of incurred losses.

Through a local government joint self-insurance program, the governing body of a local government entity may individually self-insure, may join or form a self-insurance program together with other entities, and may jointly purchase insurance or reinsurance with other entities for property and liability risks, and health and welfare benefits. In addition, the entity or entities may contract for or hire personnel to provide risk management, claims, and administrative services.

The term "local government entity" is defined as every unit of local government, both general purpose and special purpose, and includes, but is not limited to, counties, cities, towns, port districts, public utility districts, water-sewer districts, school districts, fire protection districts, irrigation districts, metropolitan municipal corporations, conservation districts, and other political subdivisions, governmental subdivisions, municipal corporations, quasi-municipal corporations, nonprofit corporations comprised of only units of local government, or a group comprised of local governments joined by an interlocal agreement.

The agreement to form a joint self-insurance program must be made under an interlocal agreement and may create a separate legal or administrative entity with powers delegated to it. Every individual and joint self-insurance program is subject to audit by the Washington State Auditor. If provided for in the contract among participants, a local government joint self-insurance program may:

- contract or otherwise provide for risk management and loss control services;
- contract or otherwise provide legal counsel for the defense of claims and other legal services;
- consult with the Office of the Insurance Commissioner and the Risk Manager;
- jointly purchase insurance and reinsurance coverage in a form and amount as the program's participants agree by contract;
- obligate the program's participants to pledge revenues or contribute money to secure the obligations or pay the expenses of the program, including the establishment of a reserve or fund for coverage; and
- possess any other powers and perform all other functions reasonably necessary to carry out the purposes of the law.

The assets of a joint self-insurance program may be invested only in accordance with the general investment authority that participating local government entities possess as a governmental entity. A local government joint self-insurance program may contract indebtedness and sell revenue bonds evidencing the indebtedness and may accept loans of the proceeds of the bonds. The Risk Manager has rule making authority pertaining to local government joint self-insurance programs and must adopt rules governing the management and operation of both individual and joint local government self-insurance programs covering property or liability risks, as well as individual and joint local government self-insured health and welfare benefits programs.

Prior approval of a program is required for joint local government self-insurance programs for property and liability risks. The entities or entity proposing the program's creation must submit a plan of management and operation to the Risk Manager and the Washington State Auditor that provides specific information, including information about the covered risks, the amount and methods of financing, proposed claim reserving practices, the form of a joint program and member agreement, proposed accounting, a professional analysis of the proposal's feasibility, and other information. Generally, every joint self-insurance program covering liability or property risks must provide for the contingent liability of participants in the program if assets of the program are insufficient to cover the program's liabilities.

Summary of Substitute Bill:

Qualifying state agencies are authorized to participate in a local government joint self-insurance program to obtain property and liability insurance coverage.

A "qualifying state agency" is defined as a state agency, board, commission, or other entity of the state, other than a local government entity, with a biennial operating budget of no more than \$5 million.

References to qualifying state agencies are added to the authorizing statute for local government joint self-insurance programs in the following areas:

- the definition of the term "property and liability risks;"
- the investment authority of programs;
- the process for program participants to designate a person as treasurer of the program;
- restrictions on the depositing of program funds;
- the prohibition on employees or officials of a program participant receiving anything of value for services rendered in connection with the operation and management of the program; and
- exceptions to the prohibition on local government entities participating in a joint self-insurance program in which local government entities do not retain complete control.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- The limitation on a qualifying state agency participating in a local government joint self-insurance program for property risks is removed, to enable a qualifying state agency to participate in a local government joint self-insurance program to obtain coverage for both liability risks and property risks.
- References to the term "qualifying state agency" are added to the existing definition of "property and liability risks."

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This will give small state agencies more flexibility in obtaining affordable insurance coverage for liability risks.

(Opposed) None.

(Other) The bill provides more options to small state agencies looking for insurance coverage. It would allow small state agencies to gain access to reasonably priced liability insurance, such as employee and public officials liability insurance. One of the existing local government joint self-insurance programs, Enduris, could be a good fit for a small state agency in terms of coverage options and charges. The state Office of Risk Management, which oversees the local government joint self-insurance programs, was consulted while developing the bill.

Persons Testifying: (In support) Representative Kirby, prime sponsor.

(Other) Jaimie Bever, Board of Pilotage.

Persons Signed In To Testify But Not Testifying: None.