

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1431

Chapter 26, Laws of 2019

66th Legislature
2019 Regular Session

JOINT SELF-INSURANCE PROGRAMS--BOARD OF PILOTAGE COMMISSIONERS

EFFECTIVE DATE: July 28, 2019

Passed by the House March 7, 2019
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 8, 2019
Yeas 46 Nays 0

KAREN KEISER

President of the Senate

Approved April 17, 2019 12:17 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1431** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 18, 2019

**Secretary of State
State of Washington**

HOUSE BILL 1431

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Representatives Kirby and Vick; by request of Board of Pilotage Commissioners

Read first time 01/22/19. Referred to Committee on Consumer Protection & Business.

1 AN ACT Relating to joint self-insurance programs for property and
2 liability risks; amending RCW 48.62.011, 48.62.031, 48.62.111, and
3 48.62.121; and adding a new section to chapter 48.62 RCW.

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

5 **Sec. 1.** RCW 48.62.011 and 1991 sp.s. c 30 s 1 are each amended
6 to read as follows:

7 (1) This chapter is intended to provide the exclusive source of
8 local government entity authority to individually or jointly self-
9 insure risks, jointly purchase insurance or reinsurance, and to
10 contract for risk management, claims, and administrative services.
11 This chapter shall be liberally construed to grant local government
12 entities maximum flexibility in self-insuring to the extent the self-
13 insurance programs are operated in a safe and sound manner. This
14 chapter is intended to require prior approval for the establishment
15 of every individual local government self-insured employee health and
16 welfare benefit program and every joint local government self-
17 insurance program. In addition, this chapter is intended to require
18 every local government entity that establishes a self-insurance
19 program not subject to prior approval to notify the state of the
20 existence of the program and to comply with the regulatory and
21 statutory standards governing the management and operation of the

1 programs as provided in this chapter. This chapter is not intended to
2 authorize or regulate self-insurance of unemployment compensation
3 under chapter 50.44 RCW, or industrial insurance under chapter 51.14
4 RCW.

5 (2) This chapter is further intended to enable the board of
6 pilotage commissioners to participate in a local government joint
7 self-insurance program covering liability risks.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.62
9 RCW to read as follows:

10 The board of pilotage commissioners may participate in a local
11 government joint self-insurance program formed or operating in
12 accordance with this chapter. The board of pilotage commissioners may
13 participate in the program to obtain liability insurance coverage,
14 but not property insurance coverage.

15 **Sec. 3.** RCW 48.62.031 and 2015 c 109 s 3 are each amended to
16 read as follows:

17 (1) The governing body of a local government entity may
18 individually self-insure, may join or form a self-insurance program
19 together with other entities, including the board of pilotage
20 commissioners, and may jointly purchase insurance or reinsurance with
21 those other entities for property and liability risks, and health and
22 welfare benefits only as permitted under this chapter. In addition,
23 the entity or entities may contract for or hire personnel to provide
24 risk management, claims, and administrative services in accordance
25 with this chapter.

26 (2) The agreement to form a joint self-insurance program shall be
27 made under chapter 39.34 RCW and may create a separate legal or
28 administrative entity with powers delegated thereto.

29 (3) Every individual and joint self-insurance program is subject
30 to audit by the state auditor.

31 (4) If provided for in the agreement or contract established
32 under chapter 39.34 RCW, a joint self-insurance program may, in
33 conformance with this chapter:

34 (a) Contract or otherwise provide for risk management and loss
35 control services;

36 (b) Contract or otherwise provide legal counsel for the defense
37 of claims and other legal services;

1 (c) Consult with the state insurance commissioner and the state
2 risk manager;

3 (d) Jointly purchase insurance and reinsurance coverage in such
4 form and amount as the program's participants agree by contract;

5 (e) Obligate the program's participants to pledge revenues or
6 contribute money to secure the obligations or pay the expenses of the
7 program, including the establishment of a reserve or fund for
8 coverage; and

9 (f) Possess any other powers and perform all other functions
10 reasonably necessary to carry out the purposes of this chapter.

11 (5) A self-insurance program formed and governed under this
12 chapter that has decided to assume a risk of loss must have available
13 for inspection by the state auditor a written report indicating the
14 class of risk or risks the governing body of the entity has decided
15 to assume.

16 (6) Every joint self-insurance program governed by this chapter
17 shall appoint the risk manager as its attorney to receive service of,
18 and upon whom shall be served, all legal process issued against it in
19 this state upon causes of action arising in this state.

20 (a) Service upon the risk manager as attorney shall constitute
21 service upon the program. Service upon joint insurance programs
22 subject to chapter 30, Laws of 1991 sp. sess. can be had only by
23 service upon the risk manager. At the time of service, the plaintiff
24 shall pay to the risk manager a fee to be set by the risk manager,
25 taxable as costs in the action.

26 (b) With the initial filing for approval with the risk manager,
27 each joint self-insurance program shall designate by name and address
28 the person to whom the risk manager shall forward legal process so
29 served upon him or her. The joint self-insurance program may change
30 such person by filing a new designation.

31 (c) The appointment of the risk manager as attorney shall be
32 irrevocable, shall bind any successor in interest or to the assets or
33 liabilities of the joint self-insurance program, and shall remain in
34 effect as long as there is in force in this state any contract made
35 by the joint self-insurance program or liabilities or duties arising
36 therefrom.

37 (d) The risk manager shall keep a record of the day and hour of
38 service upon him or her of all legal process. A copy of the process,
39 by registered mail with return receipt requested, shall be sent by
40 the risk manager, to the person designated for the purpose by the

1 joint self-insurance program in its most recent such designation
2 filed with the risk manager. No proceedings shall be had against the
3 joint self-insurance program, and the program shall not be required
4 to appear, plead, or answer, until the expiration of forty days after
5 the date of service upon the risk manager.

6 **Sec. 4.** RCW 48.62.111 and 2003 c 248 s 20 are each amended to
7 read as follows:

8 (1) The assets of a joint self-insurance program governed by this
9 chapter may be invested only in accordance with the general
10 investment authority that participating (~~local government entities~~)
11 members possess as a governmental entity.

12 (2) Except as provided in subsection (3) of this section, a joint
13 self-insurance program may invest all or a portion of its assets by
14 depositing the assets with the treasurer of a county within whose
15 territorial limits any of its member local government entities lie,
16 to be invested by the treasurer for the joint program.

17 (3) Local government members of a joint self-insurance program,
18 and the board of pilotage commissioners, may by resolution of the
19 program designate some other person having experience in financial or
20 fiscal matters as treasurer of the program, if that designated
21 treasurer is located in Washington state. The program shall, unless
22 the program's treasurer is a county treasurer, require a bond
23 obtained from a surety company authorized to do business in
24 Washington in an amount and under the terms and conditions that the
25 program finds will protect against loss arising from mismanagement or
26 malfeasance in investing and managing program funds. The program may
27 pay the premium on the bond.

28 All program funds must be paid to the treasurer and shall be
29 disbursed by the treasurer only on warrants issued by the treasurer
30 or a person appointed by the program and upon orders or vouchers
31 approved by the program or as authorized under chapters 35A.40 and
32 42.24 RCW. The treasurer shall establish a program account, into
33 which shall be recorded all program funds, and the treasurer shall
34 maintain special accounts as may be created by the program into which
35 the treasurer shall record all money as the program may direct by
36 resolution.

37 (4) The treasurer of the joint program shall deposit all program
38 funds in a public depository or depositories as defined in RCW
39 39.58.010(~~(+2)~~) (15) and under the same restrictions, contracts, and

1 security as provided for any participating (~~local government~~
2 ~~entity~~) member, and the depository shall be designated by resolution
3 of the program.

4 (5) A joint self-insurance program may invest all or a portion of
5 its assets by depositing the assets with the state investment board,
6 to be invested by the state investment board in accordance with
7 chapter 43.33A RCW. The state investment board shall designate a
8 manager for those funds to whom the program may direct requests for
9 disbursement upon orders or vouchers approved by the program or as
10 authorized under chapters 35A.40 and 42.24 RCW.

11 (6) All interest and earnings collected on joint program funds
12 belong to the program and must be deposited to the program's credit
13 in the proper program account.

14 (7) A joint program may require a reasonable bond from any person
15 handling money or securities of the program and may pay the premium
16 for the bond.

17 (8) Subsections (3) and (4) of this section do not apply to a
18 multistate joint self-insurance program governed by RCW 48.62.081.

19 **Sec. 5.** RCW 48.62.121 and 2009 c 162 s 29 are each amended to
20 read as follows:

21 (1) No employee or official of a local government entity or the
22 board of pilotage commissioners may directly or indirectly receive
23 anything of value for services rendered in connection with the
24 operation and management of a self-insurance program other than the
25 salary and benefits provided by his or her employer or the
26 reimbursement of expenses reasonably incurred in furtherance of the
27 operation or management of the program. No employee or official of a
28 local government entity or the board of pilotage commissioners may
29 accept or solicit anything of value for personal benefit or for the
30 benefit of others under circumstances in which it can be reasonably
31 inferred that the employee's or official's independence of judgment
32 is impaired with respect to the management and operation of the
33 program.

34 (2)(a) No local government entity may participate in a joint
35 self-insurance program in which local government entities do not
36 retain complete governing control. This prohibition does not apply
37 to:

1 (i) Local government contribution to a self-insured employee
2 health and welfare benefits plan otherwise authorized and governed by
3 state statute;

4 (ii) Local government participation in a multistate joint program
5 where control is shared with local government entities from other
6 states; ~~((or))~~

7 (iii) Local government contribution to a self-insured employee
8 health and welfare benefit trust in which the local government shares
9 governing control with their employees; or

10 (iv) Local government participation in a joint self-insurance
11 program with the board of pilotage commissioners, as authorized in
12 section 2 of this act.

13 (b) If a local government self-insured health and welfare benefit
14 program, established by the local government as a trust, shares
15 governing control of the trust with its employees:

16 (i) The local government must maintain at least a fifty percent
17 voting control of the trust;

18 (ii) No more than one voting, nonemployee, union representative
19 selected by employees may serve as a trustee; and

20 (iii) The trust agreement must contain provisions for resolution
21 of any deadlock in the administration of the trust.

22 (3) Moneys made available and moneys expended by school districts
23 and educational service districts for self-insurance under this
24 chapter are subject to such rules of the superintendent of public
25 instruction as the superintendent may adopt governing budgeting and
26 accounting. However, the superintendent shall ensure that the rules
27 are consistent with those adopted by the state risk manager for the
28 management and operation of self-insurance programs.

29 (4) RCW 48.30.140, 48.30.150, 48.30.155, and 48.30.157 apply to
30 the use of insurance producers and surplus line brokers by local
31 government self-insurance programs.

32 (5) Every individual and joint local government self-insured
33 health and welfare benefits program that provides comprehensive
34 coverage for health care services shall include mandated benefits
35 that the state health care authority is required to provide under RCW
36 41.05.170 and 41.05.180. The state risk manager may adopt rules
37 identifying the mandated benefits.

38 (6) An employee health and welfare benefit program established as
39 a trust shall contain a provision that trust funds be expended only

1 for purposes of the trust consistent with statutes and rules
2 governing the local government or governments creating the trust.

Passed by the House March 7, 2019.

Passed by the Senate April 8, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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