

HOUSE BILL REPORT

SB 5102

As Passed House:

April 11, 2025

Title: An act relating to establishing a public records exemption for the proprietary information of public risk pools.

Brief Description: Establishing a public records exemption for the proprietary information of public risk pools.

Sponsors: Senator Hasegawa.

Brief History:

Committee Activity:

State Government & Tribal Relations: 3/18/25, 3/25/25 [DP].

Floor Activity:

Passed House: 4/11/25, 74-21.

Brief Summary of Bill

- Creates an exemption in the Public Records Act for certain information used by or prepared for public risk pools.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass. Signed by 6 members: Representatives Mena, Chair; Stearns, Vice Chair; Waters, Ranking Minority Member; Chase, Doglio and Farivar.

Minority Report: Without recommendation. Signed by 1 member: Representative Walsh, Assistant Ranking Minority Member.

Staff: Desiree Omli (786-7105).

Background:

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

Joint Self-Insurance Programs.

Various types of joint self-insurance programs, also known as risk pools, are authorized for different types of entities, which are generally regulated by the State Risk Manager through the Office of Risk Management within the Department of Enterprise Services. 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.

Public risk pools. 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. Funding for these programs is provided by annual assessments paid by each approved program. An actuary apportions the costs among the members annually according to a formula which must be fair to each member. In a claim or action against the state or a local government entity that is part of a risk pool, the portion of any funds or liability reserve established to satisfy a claim or cause of action is not disclosable. All other records of individual or joint self-insurance programs are subject to disclosure to the extent allowable under the Public Records Act (PRA).

Public Records Act.

The PRA requires state and local agencies to make all public records available for public inspection and copying unless a record falls within an exemption under the PRA or another statute that exempts or prohibits disclosure of specific information or records. Exemptions under the PRA are permissive, meaning that an agency, although not required to disclose, has the discretion to provide an exempt record. The exemptions under the PRA are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be redacted from the specific records sought. The PRA is liberally construed, and its exemptions are narrowly construed.

The PRA exempts certain financial, commercial, and proprietary information from disclosure. Examples include certain valuable formulae, computer source code or object code, and research data obtained by any agency if disclosure would produce private gain and public loss. Other information relating to insurance institutions is exempt from disclosure, but there is no specific exemption related to public joint self-insurance programs.

Summary of Bill:

A new exemption under the PRA is created for formulae and data that public risk pools use to calculate rates for pool member contributions or assessments. In addition, actuarial analyses and reports prepared by or for public risk pools are exempt from disclosure.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) The Washington Schools Risk Management Pool has won national awards for how they have managed risks for school districts. They have invested much time and effort into developing internal algorithms and formulae that are unique and unlike any other coverage models for schools. As insurance for schools is becoming astronomically more expensive, private companies are making public records requests to get access to the algorithms that determine the annual rate setting for members in the Washington Schools Risk Management Pool. These private companies have a financial incentive to try and direct school districts towards private insurance or to insurance purchasing pools administered by insurance brokerages. Since the Washington Schools Risk Management Pool is managed by schools and not commissioned brokers, rates are published in the spring, when schools are developing their budgets, which is months before the private industry releases their rates.

The algorithms and formulae are a significant investment that the government has and should be protected for the benefit of the public. Providing private insurance companies with internal projections and rate setting methodology months before they set their premiums would be a detriment to public schools. This exemption is narrowly tailored to protect this specific proprietary information. Risk pools should not be forced to disclose information that would produce private gain and public loss.

(Opposed) None.

(Other) This is a reasonable exemption. The exempt information is essentially proprietary information and disclosure of this information does create a situation where there would be private gain and public loss.

Persons Testifying: (In support) Senator Bob Hasegawa, prime sponsor; and Tyna Ek, General Counsel for the Washington Schools Risk Management Pool.

(Other) Rowland Thompson, Allied Daily Newspapers and WSABroadcasters.

Persons Signed In To Testify But Not Testifying: None.