

HOUSE BILL REPORT

SHB 1907

*As Passed House
March 15, 1991*

Title: An act relating to the regulation of local government self-insurance.

Brief Description: Regulating local government self-insurance.

Sponsor(s): By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Dellwo, Broback, Zellinsky, Mielke, Anderson, R. Meyers, Winsley, Inslee, Paris, Dorn, Schmidt, Scott and R. Johnson).

Brief History:

Reported by House Committee on:
Financial Institutions & Insurance, March 1, 1991, DPS;
Passed House, March 15, 1991, 82-16.

**HOUSE COMMITTEE ON
FINANCIAL INSTITUTIONS & INSURANCE**

Majority Report: *That Substitute House Bill No. 1907 be substituted therefor, and the substitute bill do pass.*
Signed by 13 members: Representatives Dellwo, Chair; Zellinsky, Vice Chair; Broback, Ranking Minority Member; Mielke, Assistant Ranking Minority Member; Anderson; Dorn; Inslee; R. Johnson; R. Meyers; Paris; Schmidt; Scott; and Winsley.

Staff: John Conniff (786-7119).

Background: In 1979, the Legislature responded to local government problems in obtaining affordable liability insurance by authorizing the self-insurance of liability risks. The legislation also authorized the formation of joint self-insurance programs whereby local government entities could join together to self-insure their liability risks. The Legislature later amended the act to authorize local government self-insurance of property risks.

In 1985, the Legislature amended the local government self-insurance act to permit school districts and educational service districts to self-insure their employee health and welfare benefit plans in accordance with rules adopted by the Superintendent of Public Instruction (SPI). The act

does not authorize self-insurance of employee health and welfare benefit plans for other local government entities. However, until 1979, some types of local government entities had authority granted in their governing statutes permitting contributions to self-insured plans that conformed to an insurance code chapter that was repealed in 1979. With repeal of that statute, local government authority to self-insure employee health and welfare plans became questionable.

Under the local government self-insurance statute, the state risk manager has the responsibility for approving the creation of new joint property and liability self-insurance programs. The state risk manager has no other ongoing oversight responsibility and no rule-making authority with respect to joint self-insurance programs. Once approved, all responsibility falls to the state auditor. Individual self-insurance programs are not subject to statutory or regulatory provisions.

School district and educational service district self-insurance programs are subject to the rules adopted by the Superintendent of Public Instruction. SPI has adopted rules for the operation and management of school district health and welfare benefit programs but does not enforce the rules. SPI has asked to have its responsibility for regulating these programs removed and placed with a more appropriate regulatory agency.

The state auditor audits fiscal and legal compliance for all public accounts in the state of Washington, which includes all self-insurance programs. In its 1990 annual report, the state auditor recommended that the Legislature revise local government self-insurance statutes to prevent and correct problems noted in the annual report.

Summary of Bill: The existing statute governing local government self-insurance programs is repealed in its entirety. All local government entities are authorized to self-insure property and liability risks and employee health and welfare benefits only as permitted under the new act.

An advisory board, comprised of five persons appointed by the governor, is created to assist the state risk manager in approving joint local government self-insurance programs covering property or liability risks. The board will also assist in adopting management and operation rules to be followed by both individual and joint local government self-insurance programs covering property or liability risks.

Another advisory board, comprised of six persons appointed by the governor, is created to assist the state risk manager

in approving both individual and joint local government self-insured health and welfare benefits plans and in adopting rules for the management and operation of such plans.

Except for individual self-insurance of property and liability risks by local government, which is not subject to the prior approval requirements, the state risk manager must either approve or disapprove a plan to create a self-insurance program within 120 days of a filing of a management and operation plan conforming to statutory and regulatory standards. The state risk manager must also approve or disapprove any change to the initial plan within 60 days of filing of a notice of plan changes.

The state risk manager may order any approved program to cease and desist any act or practice in violation of the act or threatening the solvency of the program. If the program fails to comply with the order, the state risk manager must notify the state auditor and the attorney general of the violation.

Individual local government self-insurance programs covering property or liability risks, which are not required to be approved by the state risk manager, must file a notice with the state auditor indicating who manages the program and what class of risks are covered.

Local governments, which have decided to assume a class of risks rather than insure or self-insure against loss, must have available for inspection by the state auditor a report indicating that such a decision was made by the governing body of the local government.

Special procedures are established for local government participation in a multi-state self-insurance program.

Conflicts of interest are prohibited.

Local governments must have complete control over any joint self-insurance program.

Third party administrators and other businesses contracting with a self-insurance program must be subject to service of process within Washington State.

School district funds for employee benefits are still subject to the Superintendent of Public Instruction's budget and accounting rules which must be consistent with rules adopted by the state risk manager.

Agents and brokers doing business with any self-insurance program must comply with insurance code provisions governing fees and commissions.

Partial funding of regulatory responsibilities is provided through fees set by the state risk manager. The state risk manager may collect application and investigation fees from individual and joint local government self-insured employee health and welfare benefit programs and from joint local government self-insurance programs covering property or liability risks.

Every local government self-insurance program that has been in operation for at least one year prior to the effective date of the act has until January 1, 1993 to obtain approval from the state risk manager. Local government authority to self-insure health and welfare benefits is made retroactive to 1979.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The state auditor believes that the local government self-insurance statute should be amended to provide for improved oversight of joint self-insurance programs. In addition, given the recent informal attorney general letter opinion that cities and counties may not have authority to self-insure employee health benefits, the Legislature should clarify this authority. In addition, problems with a local government joint self-insurance program for employee health benefits demonstrates the need for greater oversight of these programs. The auditor's office has also found problems in the management and operation of other joint self-insurance programs. Rules for the management and operation of local government self-insurance programs will give the auditor better standards by which to audit these programs.

Local government employee groups favor stronger regulation of local government self-insured employee health benefit plans because these plans are created for the benefit of employees and any mismanagement or insolvency will hurt employees.

Joint local government self-insurance programs and municipal pools favor increased oversight and greater accountability to prevent mismanagement or potential insolvency. While most pools are professionally and successfully managed, some problems with other pools have indicated a need to improve regulation.

Cities neither oppose nor support legislation establishing rules for individual local government self-insurance programs, but support clear statutory authority to self-insure employee health care benefits.

Testimony Against: Counties oppose any effort to impose regulation upon individual local government self-insurance programs. No need has been demonstrated. No individual self-insurance program has been identified as having been operated in an unsafe manner. The state should not interfere with successful local government operations.

Witnesses: Robert Graham, State Auditor (Pro); Linda Sheler and Joe Durvais, State Auditor's Office (Pro); Sam Kinville, County and City Employees (Pro); Ron Johnson, Council of Fire Fighters (Pro); Stephen Holt, Snohomish County Housing Authority (Pro); Larry Cooksey, Housing Authority Risk Retention Pool (Pro); Larry Weston, Water and Sewer Insurance Pool (Pro); Lewis Leigh, Washington Cities Risk Insurance Authority (Pro); Terry Bone, Puget Sound Schools Risk Management Pool (Pro); Dan Carney, Washington Government Entity Pool (Pro); Joe Daniels, Washington State Association of Water and Wastewater Districts (Pro); Dick Jansen and Gary Alexander, State Risk Manager's Office; Margaret Stanley, State Health Care Authority; John Happy, Jr., City of Spokane; Peggy Lesser, City of Bremerton; Robert Mack, City of Tacoma; Jim Justin, Association of Washington Cities; Gary Lowe, Assn. of Counties (Con); John Haywood, Pacific Risk Management (Con); and Fred Rapp, Cities Insurance Assn. of Washington (Con).