

FINAL BILL REPORT

ESHB 1907

C 30 L 91 E1
Synopsis As Enacted

Brief Description: Regulating local government self-insurance.

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).

House Committee on Financial Institutions and Insurance
Senate Committee on Financial Institutions and Insurance

Background: In 1979, the Legislature authorized local government self-insurance of liability risks. The Legislature 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 legislation to also 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 legislation did not authorize self-insurance of employee health and welfare benefit plans for other local government entities.

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 oversight responsibility falls to the state auditor. Individual local government self-insurance programs are not subject to statutory or regulatory oversight except for periodic review by the state auditor.

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 local government 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 several problems.

Summary: 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 of the act, 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 local government to cease and desist from any act or practice in violation of the act or threatening the solvency of the insurance program. If the entity fails to comply with the order, the state risk manager must notify the state auditor and the attorney general of the violation and may levy a fine of not less than \$300 nor more than \$10 thousand.

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.

Initial funding for creation of a regulatory program is provided by fees set, levied, and collected by the advisory boards.

Funding of other 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.

Votes on Final Passage:

House 82 16

First Special Session

House 77 16

Senate 45 0 (Senate amended)

House 80 13 (House concurred)

Effective: January 1, 1992