

SENATE BILL REPORT

ESHB 1907

AS REPORTED BY COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE,  
APRIL 2, 1991

**Brief Description:** Regulating local government self-insurance.

**SPONSORS:** 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 & INSURANCE**

**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE**

**Majority Report:** Do pass as amended.

Signed by Senators von Reichbauer, Chairman; Johnson, Vice Chairman; Moore, Owen, Pelz, Rasmussen, Sellar, and West.

**Staff:** Meg Jones (786-7416)

**Hearing Dates:** April 2, 1991

**BACKGROUND:**

Self-insurance pools and plans are an alternate method of providing coverage and benefits for potential losses without primary insurance. Due to difficulty experienced by municipal entities and local governments in obtaining insurance in the mid-1970s, the Legislature approved the formation of joint self-insurance pools or self insurance plans by local governmental entities as an insurance option in 1979. The current state law sets forth general guidelines for joint pools' asset management, investment methods and the types of risks that may be covered. It provides for approval by the State Risk Manager, but permits a plan to operate if the risk manager does not respond to an application within 60 days. The State Auditor audits those pools which have registered on a three-year cycle, unless otherwise provided for.

In January, 1990 the State Auditor issued a White Paper outlining the risks posed by the current lack of specific regulation of local governmental self-insurance pools. Legislative changes were recommended. Concerns have been expressed about conflict of interest situations where plan administrators personally benefit from reinsurance sold to the plan they administer. A Joint Select Subcommittee on Municipal Insurance Pools was established by the Legislature in 1990, and investigative hearings were held.

Approximately 30 municipal self-insurance pools or plans are registered with the Risk Manager and audited by the state at

present. Eight of these are also members of PRIMA, a nationwide organization of public risk management entities. PRIMA's Washington chapter has developed voluntary standards for pool operation which are more specific and stricter than current state law. Currently, most municipal self-insurance pools are self-regulating.

**SUMMARY:**

The current statute governing local government self-insurance programs is repealed. The new act constitutes the sole authority for local governmental entities to self-insure property and liability risks and employee health and welfare benefits.

The State Risk Manager is given authority for approving, monitoring, establishing and enforcing rules governing local governmental entity self-insurance plans or joint pools. In the property/liability area, an advisory board comprised of five industry-skilled persons shall be appointed by the Governor to: 1) assist the Risk Manager in approving pools and plans; 2) assist the Risk Manager in adopting management and operation rules; and 3) assist the Risk Manager in reviewing and investigating self-insurance pools and plans pursuant to the State Auditor's reports and the rules enacted. An advisory board with the same duties and consisting of six gubernatorial appointments is established for the health/welfare benefits area.

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 receiving a management and operation plan. Areas the plan must address are set forth. Plans in operation must obtain the Risk Manager's approval of any substantial operational changes as well.

Reporting and filing requirements are established for individual and joint plans and for plans which assume a class of risks. Each pool must have an agent designated for service of process. Conflicts of interest are specifically addressed and prohibited. Agents and brokers doing business with self-insurance programs must comply with insurance code provisions governing fees and commissions. Pools are exempt from B&O tax, insurance premium tax, guaranty association assessments and joint underwriting association requirements. Contingent liability of the participating municipal entities is established.

Special procedures are established for local governmental participation in interstate self-insurance pools.

Local governmental self-insured health and welfare benefits programs currently in existence are given retroactive recognition back to 1979. Funding for the initial filing review of plans and subsequent reviews shall be charged to the

joint pool or plan. The State Auditor shall audit plans once every two years.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**SUMMARY OF PROPOSED SENATE AMENDMENT:**

The Risk Manager's office is made the attorney in fact for service of process. Immunity for exercise of the regulatory function of the bill is extended to the Risk Manager's office, the State Auditor and those who provide good faith information. The State Investment Board is authorized to act as an investment repository and trustee for the public funds of the pools, and the organizational structure of the State Investment Board is further defined relative to its role as trustees of public funds. The advisory boards are empowered with the right to fund the start-up expenses related to the Risk Manager's rule-making authority.

**TESTIMONY FOR:**

Regulation and upfront oversight of the municipal self-insurance plans are necessary to prevent insolvency and protect the subscribers who benefit and taxpayers who fund self-insurance programs. The auditor's office has detected serious problems as part of its auditing function and is concerned that many plans are not even audited because they have not registered, leaving many plans completely unregulated.

**TESTIMONY AGAINST:**

Most plans do not have problems requiring regulation by a state agency with rule-making authority. The auditor's evaluation every two years is sufficient state regulation, because the contingent liability of the members of plans or pools protects the subscribers. The cost of regulation will damage the smaller plans and make benefits more costly.

**TESTIFIED:** Representative Dennis Dellwo, original sponsor (pro); Bob Graham, State Auditor (pro); Gary Alexander, Risk Manager (pro); Steve Wehrly, Insurance Brokers (pro); Sam Kinville, Association of City and County Employees (pro); Howard Vietzke, Council of Firefighters (pro); Jim Justin, AWC (pro); Gary Lowe, Association of Counties (con); Karen Felles, King County (con); John Crawford, Washington Counties Risk Pool (con); Ron Zirkle, Prosecutor, Yakima County (con); Mike Patrick, Police Officers (pro)