HOUSE BILL REPORT
E2SHB 1840

As Passed House:
February 12, 2004

Title: An act relating to authorizing nonprofit corporations to participate in self-insurance risk pools.

Brief Description: Authorizing nonprofit corporations to participate in self-insurance risk pools.

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Clibborn, Jarrett, Rockefeller, O'Brien, Skinner, Hankins, Edwards, Nixon, Pettigrew, Sullivan, Hunt, Moeller, Schindler, Mielke, Kenney, Haigh, Linville, Lovick, Chase, Darneille and Tom).

Brief History:
Committee Activity:
Financial Institutions & Insurance: 1/21/04, 1/23/04 [DP2S].
Floor Activity:
Passed House: 2/12/04, 96-0.

Brief Summary of Engrossed Second Substitute Bill

- Authorizes nonprofit corporations to individually or jointly self-insure, or jointly purchase insurance or reinsurance, with local government entities and/or other nonprofit corporations.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 11 members: Representatives Schual-Berke, Chair; Simpson, G., Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Roach, Santos and Simpson, D..

Staff: Carrie Tellefson (786-7127).

Background:

Recently many nonprofit corporations have either experienced difficulty obtaining the liability insurance necessary to continue providing services or have seen dramatic increases in their insurance premiums.

Self-insurance by local governments:
Local government entities have the authority to individually or jointly self-insure against risks, jointly purchase insurance or reinsurance, and to contract for risk management, claims, and administrative services. In addition, subject to specified conditions, local government entities may enter into joint self-insurance programs with similar entities from other states. The Risk Manager (Risk Manager) within the Office of Financial Management (OFM) is responsible for the regulation of such self-insurance activities and may adopt rules governing their operation.

Local government entities must obtain prior approval from the Risk Manager before establishing a *joint* self-insurance program covering property and liability risks involving two or more covered entities. Such *prior* approval is not required for the creation of an *individual*self-insurance program. However, entities that establish individual self-insurance programs must notify the Risk Manager of the existence of the program and comply with the regulatory and statutory standards governing the operation of such programs. In addition, self-insurance programs must file annual reports with the Risk Manager and the State Auditor containing specified information regarding their operation.

Washington Nonprofit Corporation Act:
The Washington Nonprofit Corporation Act (Act) governs the organization and practices of nonprofit corporations in Washington. The Act contains a lengthy list of "general powers" that may be exercised by nonprofits, covering such areas as contracts, lending money, pensions, and other corporate practices.

Summary of Engrossed Second Substitute Bill:

Nonprofit corporations are authorized to form or join a self-insurance risk pool with another nonprofit corporation or with a local government for property or liability risks. A nonprofit corporation that self insures or joins with a local government entity is subject to the same regulations that apply to a local government entity. Nonprofits that individually self insure, that participate in a risk pooling arrangement under the insurance code, and hospitals that participate in self insurance risk pools are exempt from these provisions.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Since last year there have been more people talking about how nonprofit organizations are having difficulty receiving insurance. Although the bill was amended last year to limit its application to only nonprofit transportation providers, the proposed second substitute bill takes the language back to its original format, which was to allow all nonprofit organizations to participate in self-insurance risk pools.

One nonprofit organization's rates went from $50,000 to $210,000 per year - a 380 percent increase. They've been in business for 53 years and have never had a claim. With one week left on their existing insurance policy, they were told their insurance would not be renewed. There insurance coverage has now been reduced to "claims made." They re-bid their insurance package with 15 other insurance companies. Thirteen wouldn't even respond, one was not qualified, and they were left with one option. Nonprofits are in a unique situation because they can't pass their costs along to their clients and its not fair to pass them along to donors either. Donations are plunging. They looked at reducing overhead. The second option is to take the insurance responsibility on themselves. They have a good record of safety, good business practices, and aren't afraid to take on the risk. They need this bill to do it.

This bill is better than the bill language that limited participants to nonprofit transportation providers because many nonprofit organizations have several different programs. It would be difficult to split programs apart for purposes of insurance because the lines blur. This bill is a good option because it puts the control in the hands of the nonprofit organization to control costs, control claims, and reserve equity for future years.

One third party administrator administers four self-insurance risk pools in the state. They manage programs for cities, county schools, and special purpose districts; they also purchase reinsurance, if necessary. They report their activities to the state Risk Manager. They've never seen an increase in rates more than 11 percent. They spend a lot of time on risk management activities and training for their participants. The spread of risk is critical to an organization.

The Office of Insurance Commissioner supports the bill. However, it's OFM that regulates this type of activity through the state Risk Manager. The OFM regulates 16 risk pools. They have a rigorous approval process, requiring an actuarial study and detailed investigation, quarterly and annual reports, and an on-site examination. The National Association of Government Risk Pools found that the state of Washington had one of the most comprehensive policies for safety and soundness of risk pools.

Testimony Against: None.

Persons Testifying: Representative Clibborn, prime sponsor; Howard Finck, Friends of Youth; Doreen Marchione, Hopelink; Darren R. Brugmann, Fremont Public Association; Eric Homer, Canfield & Associates; and Lisa Smego, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.