

# HOUSE BILL REPORT

## SHB 1840

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### As Passed House:

March 13, 2003

**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: 2/25/03, 3/3/03 [DPS].

#### Floor Activity:

Passed House: 3/13/03, 96-0.

### Brief Summary of Substitute Bill

- Authorizes private, nonprofit transportation providers to participate in self-insurance risk pools with local government entities.

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## HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

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

**Staff:** Thamas Osborn (786-7129).

### Background:

Insurance issues affecting special needs transportation providers: Throughout the state, there are local nonprofit corporations that provide specialized transportation services to

groups with special needs, such as seniors and disabled persons. In recent years, many of these nonprofit corporations have either experienced difficulty obtaining the liability insurance necessary to continue providing such transportation services or have seen dramatic increases in their insurance premiums. To solve this problem, some providers of special needs transportation services have proposed that they be allowed to enter into joint self-insurance arrangements with other such providers or local government entities. Current law does not allow such joint self-insurance arrangements.

Self-insurance by local government entities: 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 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.

Local government entities are not authorized to establish joint self-insurance programs with nonprofit corporations.

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. These enumerated powers do not reference subject matter related to the creation of self-insurance programs.

Private, nonprofit transportation provider: Private, nonprofit transportation provider– is defined by statute as meaning any private, nonprofit corporation providing transportation services for compensation solely to persons with special transportation needs. Persons with special transportation needs,– in turn, refers to persons who “ due to disability, poverty, or age “ are unable to provide their own transportation.

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### **Summary of Substitute Bill:**

Nonprofit corporations that meet the statutory definition of private, nonprofit transportation provider– are authorized to participate in self-insurance risk pools with local government entities. Specifically, private, nonprofit transportation providers are authorized to individually or jointly self insure, or jointly purchase insurance or reinsurance, with local government entities. Nonprofit corporations that participate in such self-insurance arrangements are subject to the same rules and regulations applicable to local government entities that self insure.

The state Risk Manager is required to report to the Legislature by December 1, 2004, regarding the impact of the bill on self-insurance risk pools.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 5, 2003.

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

**Testimony For:** (Original bill) Private, nonprofit transportation providers for special needs persons are experiencing great difficulty in obtaining liability insurance on the standard insurance market. Those that are obtaining insurance are experiencing huge increases in the cost of their premiums. These insurance problems threaten the ability of these nonprofits to provide transportation to the disabled and the elderly. Such services are sorely needed by many of our most vulnerable citizens who do not have other transportation options. Allowing these nonprofits to enter into self-insurance risk pools, as provided in the bill, would at least make some form of insurance available and would help to stabilize rates. Such risk-pooling arrangements have been quite successful in other states and have helped to ease insurance costs. The bill would apply to all nonprofits, not just private, nonprofit transportation providers. The scope of the bill should be narrowed so that it only applies to private, nonprofit transportation providers.

**Testimony Against:** (Original bill) It is not in the public interest to allow nonprofits to self-insure as proposed in the bill. Such self-insurance can result in huge unanticipated risk exposures that the self-insured entity may not have the financial resources to cope with. Furthermore, self insurance is not subject to any of the regulatory safeguards provided by the insurance code, such as solvency requirements, consumer-protection provisions, guaranty associations, and market-conduct exams.

**Testified:** (In support) Representative Clibborn, prime sponsor; Mary Jo Cady, Community Transportation Association of the Northwest; Darren R. Brugnann, Fremont Public Association (Seattle Personal); Allen F. Hatten, Washington State Transit Insurance Pool; and Doreen Marchione, Hopelink.

(Opposed) Mel Sorensen, National Association of Independent Insurers.

(Neutral) John Nicholson, Office of Financial Management.