HOUSE BILL REPORT
HB 3042

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to authorizing certain entities to participate in self-insurance risk pools.

Brief Description: Authorizing certain entities to participate in self-insurance risk pools.

Sponsors: Representatives Santos, Cairnes, Roach, Sullivan, Wallace, Ormsby, Simpson, D., Chase, Benson, Carrell, Newhouse, Simpson, G., Cooper, Schual-Berke, Hatfield, Kagi and Upthegrove.

Brief History:
Committee Activity:
Financial Institutions & Insurance: 2/3/04, 2/6/04 [DPS].

Brief Summary of Substitute Bill

- Authorizes adult family homes to individually or jointly self-insure and jointly purchase insurance or reinsurance.

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; G. Simpson, Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Roach, Santos and D. Simpson.

Staff: Carrie Tellefson (786-7127).

Background:

"Adult family home" means a residential home in which a person or persons provide personal care, special care, and room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. Adult family homes may not operate without a license.

<u>Self-insurance by local governments</u>
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.

The Interlocal Cooperation Act

The Interlocal Cooperation Act (Act) authorizes governments, including political subdivisions, municipal corporations, quasi municipal corporations, special purpose districts, and local service districts, state agencies, federal agencies, federally recognized Indian tribes, and any political subdivision of another state to join together in contracting and purchasing in order to make the most efficient use of their powers and resources.

In order to do so, the entities must take appropriate action by ordinance, resolution or otherwise and must enter into an agreement, which sets for the purpose of the agreement, its duration, its administration, organization, budgeting, whether a separate legal entity has been created, the manner of acquiring, holding and disposing of real and personal property, and other matters.

The Office of State Procurement within the Department of General Administration may enter into an agreement with a public benefit nonprofit corporation to allow it to participate in state contracts for purchases administered by the Office of State Procurement. A public benefit nonprofit corporation is a nonprofit corporation that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or a political subdivision of another state.

The State Constitution provides that the credit of the state shall not, in any manner be given or loaned to, or in aid of, any individual, association, company or corporation. It further provides that no county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation, except for the necessary support of the poor and infirm, or become directly or indirectly the owner of any stock in or bonds of any association, company or corporation.

Summary of Substitute Bill:

Adult family homes are granted the authority to self insure, to purchase insurance, and to purchase reinsurance with one another. In addition, a joint self insurance program may contract for risk management services; contract for legal counsel for the defense of claims; and consult with the state Insurance Commissioner (Commissioner). The Commissioner must approve self-insurance risk pools. The Commissioner is authorized to develop rules to regulate this activity. Every joint self insurance program shall appoint the Commissioner as its attorney to receive services of legal process. Every individual and joint self insurance program is subject to audit by the State Auditor.

Substitute Bill Compared to Original Bill:

Local governments are removed from the provisions of the bill, so that adult family homes may only jointly self insure with one another. In addition, a joint self insurance program may contract for risk management services; contract for legal counsel for the defense of claims; and consult with the Commissioner. The Commissioner must approve self-insurance risk pools. The Commissioner is authorized to develop rules to regulate this activity. Every joint self insurance program shall appoint the Commissioner as its attorney to receive services of legal process. Every individual and joint self insurance program is subject to audit by the State Auditor.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (In support) This is narrowly written to provide an option for adult family homes. The previous bill addresses nonprofit organizations and their ability to form self-insurance risk pools. Adult family homes are not necessarily non-profit organizations, so they wouldn't fall under that bill.

(Concerns) The counties aren't concerned about the substance of the idea, but are concerned about interjecting this into the Interlocal Cooperation Act. They are also reluctant to have local governments join with adult family homes to self-insure. There is also a concern about the lending of the state's credit. Local governments may not want to join together with adult family homes or with nonprofit organizations. The reason that self-insurance risk pools work for local governments is that they can do a retroactive assessment if, for some reason, the pool has insufficient funds. Their programs have always been solvent. This is a financial mechanism. Local governments can tax their members. Adult family homes would not be able to do this. Bringing them in involves a higher risk. There have been retroactive assessments against counties participating in the pool. For example, the first five years that the pool operated, it had a surplus. The second five years, there was a deficit. In the most recent five year period, they applied the surplus to cover the deficit, but still didn't break even, so they had to assess counties.

(Informational) There are a dozen or so risk pools in Washington. If this bill passed, an adult family home could come to the risk pool and the pool would have to try to determine a rate for that particular risk. They have an actuary who does this. The pool would have to appear and defend and pay claims. It would have to decide whether to purchase reinsurance, which is typically the case. For example for a county with a $20 million liability policy, the pool only insures the first $100,000. This bill could change the way they purchase reinsurance because they are adding a different type of entity to the pool.

The OFM Risk Manager regulates self-insurance risk pools. The critical points in the formation of a risk pool are: (1) Consistent membership. Over time it is important to have members stay in the pool. Claims can take many years to litigate. (2) Strong leadership in the group. They are required to have a board, for example, that will make some of the necessary decisions regarding the pool. (3) Test the market to determine whether the insurance market makes it financially feasible to self-insure. They have to buy reinsurance, so they are still dependent on the insurance market. The pool would have to do a feasibility study and a plan of operation that shows it is feasible to create the pool and that the pool can be operated. The plan must address how claims are to be administered, where the funds will be held, who will run the pool, and other details.

Testimony Against: None.

Persons Testifying: Representative Santos, prime sponsor.

(Concerns) Jean Wessman, Washington State Association of Counties; and John Crawford, Washington State Counties Risk Pool.

(Informational) John Nicholsen, Office of Financial Management.

Persons Signed In To Testify But Not Testifying: None.