

HOUSE BILL REPORT

SB 5581

As Passed House - Amended:

April 11, 2017

Title: An act relating to authorizing public hospital districts to participate in self-insurance risk pools with nonprofit hospitals.

Brief Description: Authorizing public hospital districts to participate in self-insurance risk pools with nonprofit hospitals.

Sponsors: Senators Angel and Mullet.

Brief History:

Committee Activity:

Business & Financial Services: 3/14/17, 3/15/17 [DP].

Floor Activity:

Passed House - Amended: 4/11/17, 96-0.

Brief Summary of Bill (As Amended by House)

- Authorizes two or more public benefit hospital entities, including public hospital districts and certain nonprofit hospitals, to participate in a joint self-insurance program covering property and liability risks, and to jointly purchase insurance or reinsurance.
- Requires the State Risk Manager to adopt rules governing the management and operation of joint self-insurance programs for public benefit hospital entities.
- Creates a new chapter in Title 48 RCW (Insurance Code).

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 10 members: Representatives Kirby, Chair; Reeves, Vice Chair; Vick, Ranking Minority Member; J. Walsh, Assistant Ranking Minority Member; Barkis, Bergquist, Blake, Jenkin, McCabe and Stanford.

Minority Report: Do not pass. Signed by 1 member: Representative Santos.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Peter Clodfelter (786-7127).

Background:

Local government entities, nonprofit corporations, and affordable housing entities may self-insure against risks, jointly purchase insurance or reinsurance, and contract for risk management, claims, and administrative services. There is a process for the governing body of a local government entity, nonprofit corporation, or affordable housing entity to join or form a self-insurance program with other local government entities, nonprofit corporations, or affordable housing entities, in or out of the state. The agreement to form a joint self-insurance program may include the organization of and delegation of powers to a separate legal or administrative entity.

Local government entities may join or form a joint self-insurance program only with other local government entities. Nonprofit corporations may join or form a joint self-insurance program only with other nonprofit corporations. Affordable housing entities may join or form a joint self-insurance program only with other affordable housing entities.

If provided for in its organizational documents, a joint self-insurance program formed or joined by local government entities, nonprofit corporations, or affordable housing entities may:

- contract or otherwise provide for risk management and loss control services;
- contract or otherwise provide legal counsel for the defense of claims and other legal services;
- consult with the Office of the Insurance Commissioner and the State Risk Manager;
- jointly purchase insurance and reinsurance coverage in a form and amount as provided for in the organizational documents;
- obligate the program's participants to pledge funds or revenues to secure the obligations or pay the program's expenses, including the establishment of a reserve fund for coverage, including an additional assessment if the reserve fund or the program's revenue or assets are insufficient to cover the program's liabilities; and
- possess any other powers and perform all other functions reasonably necessary to carry out the purposes of the laws authorizing joint self-insurance programs.

The entities proposing the creation of a joint self-insurance program must submit a plan of management and operation to the State Risk Manager, which is part of the Office of Risk Management within the Department of Enterprise Services. The plan must include information such as the following:

- the risks to be covered;
- the amount and method of funding the covered risks;
- the proposed purchase and maintenance of insurance or reinsurance in excess of the amounts retained by the joint self-insurance program;
- the legal form of the program;
- the agreements with participants in the program defining the responsibilities and benefits of each participant and management;
- a professional analysis of the feasibility of the creation and maintenance of the program; and
- additional specified information.

Within 120 days of receipt of a plan of management and operation from the entities proposing the creation of a joint self-insurance program, the State Risk Manager must approve or disapprove of the formation of the proposed joint self-insurance program. The State Risk Manager must establish and charge a fee for the initial review and approval of the program. Every joint self-insurance program must appoint the State Risk Manager as its attorney to receive service of legal process. The State Risk Manager is responsible for adopting rules governing the management and operation of both individual and joint self-insurance programs covering property and liability risks for local governments, nonprofit corporations, and affordable housing entities.

Each approved joint self-insurance program must file an annual report with the State Risk Manager including copies of all the insurance coverage documents, a description of the program's structure, an actuarial analysis, a list of contractors and service providers, the financial and loss experience of the program, and other information. If the State Risk Manager determines that a joint self-insurance program covering property or liability risks is in violation of law or is operating in an unsafe financial condition, the State Risk Manager may issue and serve upon the program an order to cease and desist from the violation or practice. After a hearing or with consent of the program, the State Risk Manager may levy a fine upon the program in an amount no less than \$300 and no more than \$10,000.

Summary of Bill:

The governing body of a public benefit hospital entity may join or form a joint self-insurance program together with one or more other public benefit hospital entities, and may jointly purchase insurance or reinsurance with one or more other public benefit hospital entities for property and liability risks. A public benefit hospital entity is either of the following:

- a public hospital district or an entity created by a public hospital district; or
- a nonprofit corporation that operates one or more hospitals, each of which is licensed for 360 or fewer beds by the Department of Health.

The requirements related to the formation of and regulation of joint self-insurance programs for public benefit hospital entities are generally the same as the requirements that apply to joint self-insurance programs for local government entities, nonprofit corporations, and affordable housing entities. The agreement to form a joint self-insurance program by public benefit hospital entities may include the organization of a separate legal or administrative entity. A public benefit hospital entity may also participate in a joint self-insurance program with similar public benefit hospital entities from other states, subject to restrictions.

If provided for in its organizational documents, a joint self-insurance program formed by public benefit hospital entities may:

- contract or otherwise provide for risk management and loss control services;
- contract or otherwise provide legal counsel for the defense of claims and other legal services;
- consult with the Office of the Insurance Commissioner and the State Risk Manager;
- jointly purchase insurance and reinsurance coverage in a form and amount as provided for in the organizational documents;

- obligate the program's participants to pledge funds or revenues to secure the obligations or pay the program's expenses, including the establishment of a reserve fund for coverage, including an additional assessment if the reserve fund or the program's revenue or assets are insufficient to cover the program's liabilities; and
- possess any other powers and perform all other functions reasonably necessary to carry out the purposes of the laws authorizing joint self-insurance programs.

The entities proposing the creation of a joint self-insurance program for public benefit hospital entities must submit a plan of management and operation to the State Risk Manager. The plan must include information such as the following:

- the risks to be covered;
- the amount and method of funding the covered risks;
- the proposed purchase and maintenance of insurance or reinsurance in excess of the amounts retained by the joint self-insurance program;
- the legal form of the program;
- the agreements with participants in the program defining the responsibilities and benefits of each participant and management;
- a professional analysis of the feasibility of the creation and maintenance of the program; and
- additional specified information.

Within 120 days of receipt of a plan of management and operation, the State Risk Manager must approve or disapprove of the formation of the proposed joint self-insurance program. The State Risk Manager must establish and charge a fee for the initial review and approval of the program. Every joint self-insurance program must appoint the State Risk Manager as its attorney to receive service of legal process. The State Risk Manager must adopt rules governing the management and operation of joint self-insurance programs for public benefit hospital entities that cover property or liability risks.

Each approved joint self-insurance program for public benefit hospital entities must file an annual report with the State Risk Manager including copies of all the insurance coverage documents, a description of the program's structure, an actuarial analysis, a list of contractors and service providers, the financial and loss experience of the program, and other information. If the State Risk Manager determines that a joint self-insurance program for public benefit hospital entities covering property or liability risks is in violation of law or is operating in an unsafe financial condition, the State Risk Manager may issue and serve upon the program an order to cease and desist from the violation or practice. After a hearing or with consent of the program, the State Risk Manager may levy a fine upon the program in an amount no less than \$300 and no more than \$10,000.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Recent changes in the law (Senate Bill 5119 [2015]) prohibit local governments from participating in joint self-insurance programs with nonprofit corporations. This bill will allow governmental hospitals and nongovernmental hospitals to participate in the same joint self-insurance program. The State Risk Manager will oversee any joint self-insurance programs and must adopt rules regarding the management and operation of any joint self-insurance programs. Stakeholders feel they had the ability to form or participate in these types of risk pools until recently. Stakeholders believe section 8 of Senate Bill 5119 (2015) was intended to allow hospitals to participate in the type of joint self-insurance risk pools that this bill (Senate Bill 5581) would authorize, and this legislation will clarify that intent. Stakeholders engaged with the State Risk Manager to formulate this legislation, which is modeled on the law authorizing different types of affordable housing entities to form or participate in joint self-insurance programs. Stakeholders also brought the legislation to the Office of the Insurance Commissioner for review. This legislation will provide efficiencies for hospitals.

(Opposed) None.

Persons Testifying: Senator Angel, prime sponsor; and Chris Brandoli, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: None.