
HOUSE BILL 2467

State of Washington

65th Legislature

2018 Regular Session

By Representatives Kirby, Jenkins, and Santos

Read first time 01/09/18. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to joint self-insurance programs for property and
2 liability risks; amending RCW 48.62.011, 48.62.021, 48.62.031,
3 48.62.034, 48.62.111, 48.62.121, and 48.62.141; and adding a new
4 section to chapter 48.62 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 48.62.011 and 1991 sp.s. c 30 s 1 are each amended
7 to read as follows:

8 (1) This chapter is intended to provide the exclusive source of
9 local government entity authority to individually or jointly self-
10 insure risks, jointly purchase insurance or reinsurance, and to
11 contract for risk management, claims, and administrative services.
12 This chapter shall be liberally construed to grant local government
13 entities maximum flexibility in self-insuring to the extent the self-
14 insurance programs are operated in a safe and sound manner. This
15 chapter is intended to require prior approval for the establishment
16 of every individual local government self-insured employee health and
17 welfare benefit program and every joint local government self-
18 insurance program. In addition, this chapter is intended to require
19 every local government entity that establishes a self-insurance
20 program not subject to prior approval to notify the state of the
21 existence of the program and to comply with the regulatory and

1 statutory standards governing the management and operation of the
2 programs as provided in this chapter. This chapter is not intended to
3 authorize or regulate self-insurance of unemployment compensation
4 under chapter 50.44 RCW, or industrial insurance under chapter 51.14
5 RCW.

6 (2) This chapter is further intended to enable qualifying state
7 agencies that are unable to obtain a sufficient amount of property
8 and liability insurance coverage through the private market, or
9 through the state agency self-insurance liability program implemented
10 pursuant to chapter 4.92 RCW, to participate in a local government
11 joint self-insurance program covering property and liability risks.

12 **Sec. 2.** RCW 48.62.021 and 2015 c 109 s 2 are each amended to
13 read as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

16 (1) "Health and welfare benefits" means a plan or program
17 established by a local government entity or entities for the purpose
18 of providing its employees and their dependents, and in the case of
19 school districts, its district employees, students, directors, or any
20 of their dependents, with health care, accident, disability, death,
21 and salary protection benefits.

22 (2) "Local government entity" or "entity" means every unit of
23 local government, both general purpose and special purpose, and
24 includes, but is not limited to, counties, cities, towns, port
25 districts, public utility districts, water-sewer districts, school
26 districts, fire protection districts, irrigation districts,
27 metropolitan municipal corporations, conservation districts, and
28 other political subdivisions, governmental subdivisions, municipal
29 corporations, quasi-municipal corporations, nonprofit corporations
30 comprised of only units of local government, or a group comprised of
31 local governments joined by an interlocal agreement authorized by
32 chapter 39.34 RCW.

33 (3) "Nonprofit corporation" or "corporation" has the same meaning
34 as defined in RCW 24.03.005(~~((+3))~~)(16) or a similar statute with
35 similar intent within the entity's state of domicile.

36 (4) "Property and liability risks" includes the risk of property
37 damage or loss sustained by a local government entity and the risk of
38 claims arising from the tortious or negligent conduct or any error or
39 omission of the local government entity, its officers, employees,

1 agents, or volunteers as a result of which a claim may be made
2 against the local government entity.

3 (5) "Qualifying state agency" or "qualifying state agencies"
4 means a state agency, board, commission, or other entity of the
5 state, other than a local government entity, with a biennial
6 operating budget of not more than five million dollars.

7 (6) "Risk assumption" means a decision to absorb the entity's
8 financial exposure to a risk of loss without the creation of a formal
9 program of advance funding of anticipated losses.

10 ((+6)) (7) "Self-insurance" means a formal program of advance
11 funding and management of entity financial exposure to a risk of loss
12 that is not transferred through the purchase of an insurance policy
13 or contract.

14 ((+7)) (8) "State risk manager" means the risk manager of the
15 office of risk management within the department of enterprise
16 services.

17 NEW SECTION. Sec. 3. A new section is added to chapter 48.62
18 RCW to read as follows:

19 (1) A qualifying state agency may participate in a local
20 government joint self-insurance program formed or operating in
21 accordance with this chapter if:

22 (a) The qualifying state agency determines it is impossible or
23 impracticable for the qualifying state agency to obtain a sufficient
24 amount of property and liability insurance coverage through the
25 private market and the state agency self-insurance liability program
26 implemented pursuant to chapter 4.92 RCW;

27 (b) The local government joint self-insurance program the
28 qualifying state agency will participate in has never exercised any
29 authority in RCW 48.62.034 to contract indebtedness or issue and sell
30 any type of bond or short-term obligation evidencing indebtedness;
31 and

32 (c) The qualifying state agency is not obligated to pay or
33 otherwise satisfy the debts or liabilities of the local government
34 joint self-insurance program, or the program's participants, to the
35 extent doing so would result in the creation of state debt within the
36 meaning of Article VIII of the state Constitution.

37 (2) A qualifying state agency meeting the criteria in this
38 section may join a self-insurance program with local government
39 entities covering property and liability risks, may jointly purchase

1 insurance or reinsurance with other entities for property and
2 liability risks, and may contract for or hire personnel to provide
3 risk management, claims, and administrative services, to the same
4 extent as is authorized for local government entities pursuant to
5 this chapter, except as otherwise provided.

6 **Sec. 4.** RCW 48.62.031 and 2015 c 109 s 3 are each amended to
7 read as follows:

8 (1) The governing body of a local government entity may
9 individually self-insure, may join or form a self-insurance program
10 together with other entities, including qualifying state agencies as
11 provided in section 3 of this act, and may jointly purchase insurance
12 or reinsurance with those other entities for property and liability
13 risks, and health and welfare benefits only as permitted under this
14 chapter. In addition, the entity or entities may contract for or hire
15 personnel to provide risk management, claims, and administrative
16 services in accordance with this chapter.

17 (2) The agreement to form a joint self-insurance program shall be
18 made under chapter 39.34 RCW and may create a separate legal or
19 administrative entity with powers delegated thereto.

20 (3) Every individual and joint self-insurance program is subject
21 to audit by the state auditor.

22 (4) If provided for in the agreement or contract established
23 under chapter 39.34 RCW, a joint self-insurance program may, in
24 conformance with this chapter:

25 (a) Contract or otherwise provide for risk management and loss
26 control services;

27 (b) Contract or otherwise provide legal counsel for the defense
28 of claims and other legal services;

29 (c) Consult with the state insurance commissioner and the state
30 risk manager;

31 (d) Jointly purchase insurance and reinsurance coverage in such
32 form and amount as the program's participants agree by contract;

33 (e) Obligate the program's participants to pledge revenues or
34 contribute money to secure the obligations or pay the expenses of the
35 program, including the establishment of a reserve or fund for
36 coverage; and

37 (f) Possess any other powers and perform all other functions
38 reasonably necessary to carry out the purposes of this chapter.

1 (5) A self-insurance program formed and governed under this
2 chapter that has decided to assume a risk of loss must have available
3 for inspection by the state auditor a written report indicating the
4 class of risk or risks the governing body of the entity has decided
5 to assume.

6 (6) Every joint self-insurance program governed by this chapter
7 shall appoint the risk manager as its attorney to receive service of,
8 and upon whom shall be served, all legal process issued against it in
9 this state upon causes of action arising in this state.

10 (a) Service upon the risk manager as attorney shall constitute
11 service upon the program. Service upon joint insurance programs
12 subject to chapter 30, Laws of 1991 sp. sess. can be had only by
13 service upon the risk manager. At the time of service, the plaintiff
14 shall pay to the risk manager a fee to be set by the risk manager,
15 taxable as costs in the action.

16 (b) With the initial filing for approval with the risk manager,
17 each joint self-insurance program shall designate by name and address
18 the person to whom the risk manager shall forward legal process so
19 served upon him or her. The joint self-insurance program may change
20 such person by filing a new designation.

21 (c) The appointment of the risk manager as attorney shall be
22 irrevocable, shall bind any successor in interest or to the assets or
23 liabilities of the joint self-insurance program, and shall remain in
24 effect as long as there is in force in this state any contract made
25 by the joint self-insurance program or liabilities or duties arising
26 therefrom.

27 (d) The risk manager shall keep a record of the day and hour of
28 service upon him or her of all legal process. A copy of the process,
29 by registered mail with return receipt requested, shall be sent by
30 the risk manager, to the person designated for the purpose by the
31 joint self-insurance program in its most recent such designation
32 filed with the risk manager. No proceedings shall be had against the
33 joint self-insurance program, and the program shall not be required
34 to appear, plead, or answer, until the expiration of forty days after
35 the date of service upon the risk manager.

36 **Sec. 5.** RCW 48.62.034 and 2005 c 147 s 2 are each amended to
37 read as follows:

38 (1) Except as provided in subsection (4) of this section, for the
39 purpose of carrying out a joint self-insurance program, a joint self-

1 insurance program and a separate legal entity created under RCW
2 48.62.031 each may:

3 (a) Contract indebtedness and issue and sell revenue bonds
4 evidencing such indebtedness or establish lines of credit pursuant to
5 and in the manner provided for local governments in chapter 39.46 RCW
6 with the joint board under RCW 39.34.030; board of directors under
7 RCW 48.62.081; or governing board of a separate legal entity formed
8 under RCW 48.62.031, performing the functions to be performed by the
9 governing body of a local government under chapter 39.46 RCW and
10 appointing a treasurer to perform the functions to be performed by
11 the treasurer under chapter 39.46 RCW;

12 (b) Contract indebtedness and issue and sell short-term
13 obligations evidencing such indebtedness pursuant to and in the
14 manner provided for municipal corporations in chapter 39.50 RCW with
15 the joint board under RCW 39.34.030; board of directors under RCW
16 48.62.081; or governing board of a separate legal entity formed under
17 RCW 48.62.031, performing the functions to be performed by the
18 governing body of a municipal corporation under chapter 39.50 RCW;
19 and

20 (c) Contract indebtedness and issue and sell refunding bonds
21 pursuant to and in the manner provided for public bodies in chapter
22 39.53 RCW with the joint board under RCW 39.34.030; board of
23 directors under RCW 48.62.081; or governing board of a separate legal
24 entity formed under RCW 48.62.031, performing the functions to be
25 performed by the governing body of a public body under chapter 39.53
26 RCW.

27 (2) For the purpose of carrying out a joint self-insurance
28 program, a joint self-insurance program and a separate legal entity
29 formed under RCW 48.62.031 each may make loans of the proceeds of
30 revenue bonds issued under this section to a joint self-insurance
31 program or a local government entity that has joined or formed a
32 joint self-insurance program.

33 (3) For the purpose of carrying out a joint self-insurance
34 program, a joint self-insurance program and each local government
35 entity that has joined or formed a joint self-insurance program may
36 accept loans of the proceeds of revenue bonds issued under this
37 section.

38 (4) A joint self-insurance program or a separate legal entity
39 created under RCW 48.62.031 that includes one or more qualifying

1 state agencies as participants in the program is prohibited from
2 exercising any authority or power in this section.

3 **Sec. 6.** RCW 48.62.111 and 2003 c 248 s 20 are each amended to
4 read as follows:

5 (1) The assets of a joint self-insurance program governed by this
6 chapter may be invested only in accordance with the general
7 investment authority that participating local government entities
8 possess as a governmental entity, or if the joint self-insurance
9 program has one or more qualifying state agencies as participants,
10 then only in a manner consistent with the investment authority of the
11 local government entities as well as all qualifying state agencies
12 participating in the program.

13 (2) Except as provided in subsection (3) of this section, a joint
14 self-insurance program may invest all or a portion of its assets by
15 depositing the assets with the treasurer of a county within whose
16 territorial limits any of its member local government entities lie,
17 to be invested by the treasurer for the joint program.

18 (3) Local government members, and any qualifying state agency
19 members, of a joint self-insurance program may by resolution of the
20 program designate some other person having experience in financial or
21 fiscal matters as treasurer of the program, if that designated
22 treasurer is located in Washington state. The program shall, unless
23 the program's treasurer is a county treasurer, require a bond
24 obtained from a surety company authorized to do business in
25 Washington in an amount and under the terms and conditions that the
26 program finds will protect against loss arising from mismanagement or
27 malfeasance in investing and managing program funds. The program may
28 pay the premium on the bond.

29 All program funds must be paid to the treasurer and shall be
30 disbursed by the treasurer only on warrants issued by the treasurer
31 or a person appointed by the program and upon orders or vouchers
32 approved by the program or as authorized under chapters 35A.40 and
33 42.24 RCW. The treasurer shall establish a program account, into
34 which shall be recorded all program funds, and the treasurer shall
35 maintain special accounts as may be created by the program into which
36 the treasurer shall record all money as the program may direct by
37 resolution.

38 (4) The treasurer of the joint program shall deposit all program
39 funds in a public depository or depositories as defined in RCW

1 39.58.010(~~(+2)~~)(15) and under the same restrictions, contracts, and
2 security as provided for any participating local government entity
3 and any qualifying state agency participating in the program, and the
4 depository shall be designated by resolution of the program.

5 (5) A joint self-insurance program may invest all or a portion of
6 its assets by depositing the assets with the state investment board,
7 to be invested by the state investment board in accordance with
8 chapter 43.33A RCW. The state investment board shall designate a
9 manager for those funds to whom the program may direct requests for
10 disbursement upon orders or vouchers approved by the program or as
11 authorized under chapters 35A.40 and 42.24 RCW.

12 (6) All interest and earnings collected on joint program funds
13 belong to the program and must be deposited to the program's credit
14 in the proper program account.

15 (7) A joint program may require a reasonable bond from any person
16 handling money or securities of the program and may pay the premium
17 for the bond.

18 (8) Subsections (3) and (4) of this section do not apply to a
19 multistate joint self-insurance program governed by RCW 48.62.081.

20 **Sec. 7.** RCW 48.62.121 and 2009 c 162 s 29 are each amended to
21 read as follows:

22 (1) No employee or official of a local government entity or a
23 qualifying state agency may directly or indirectly receive anything
24 of value for services rendered in connection with the operation and
25 management of a self-insurance program other than the salary and
26 benefits provided by his or her employer or the reimbursement of
27 expenses reasonably incurred in furtherance of the operation or
28 management of the program. No employee or official of a local
29 government entity or a qualifying state agency may accept or solicit
30 anything of value for personal benefit or for the benefit of others
31 under circumstances in which it can be reasonably inferred that the
32 employee's or official's independence of judgment is impaired with
33 respect to the management and operation of the program.

34 (2)(a) No local government entity may participate in a joint
35 self-insurance program in which local government entities do not
36 retain complete governing control. This prohibition does not apply
37 to:

1 (i) Local government contribution to a self-insured employee
2 health and welfare benefits plan otherwise authorized and governed by
3 state statute;

4 (ii) Local government participation in a multistate joint program
5 where control is shared with local government entities from other
6 states; ~~((or))~~

7 (iii) Local government contribution to a self-insured employee
8 health and welfare benefit trust in which the local government shares
9 governing control with their employees; or

10 (iv) Local government participation in a joint self-insurance
11 program with one or more qualifying state agencies as members, as
12 authorized in section 3 of this act.

13 (b) If a local government self-insured health and welfare benefit
14 program, established by the local government as a trust, shares
15 governing control of the trust with its employees:

16 (i) The local government must maintain at least a fifty percent
17 voting control of the trust;

18 (ii) No more than one voting, nonemployee, union representative
19 selected by employees may serve as a trustee; and

20 (iii) The trust agreement must contain provisions for resolution
21 of any deadlock in the administration of the trust.

22 (3) Moneys made available and moneys expended by school districts
23 and educational service districts for self-insurance under this
24 chapter are subject to such rules of the superintendent of public
25 instruction as the superintendent may adopt governing budgeting and
26 accounting. However, the superintendent shall ensure that the rules
27 are consistent with those adopted by the state risk manager for the
28 management and operation of self-insurance programs.

29 (4) RCW 48.30.140, 48.30.150, 48.30.155, and 48.30.157 apply to
30 the use of insurance producers and surplus line brokers by local
31 government self-insurance programs.

32 (5) Every individual and joint local government self-insured
33 health and welfare benefits program that provides comprehensive
34 coverage for health care services shall include mandated benefits
35 that the state health care authority is required to provide under RCW
36 41.05.170 and 41.05.180. The state risk manager may adopt rules
37 identifying the mandated benefits.

38 (6) An employee health and welfare benefit program established as
39 a trust shall contain a provision that trust funds be expended only

1 for purposes of the trust consistent with statutes and rules
2 governing the local government or governments creating the trust.

3 **Sec. 8.** RCW 48.62.141 and 2015 c 109 s 4 are each amended to
4 read as follows:

5 (1) Subject to subsection (2) of this section, every joint self-
6 insurance program covering liability or property risks, excluding
7 multistate programs governed by RCW 48.62.081 and nonprofit risk
8 pools formed under ((RCW 48.62.036 and)) chapter 48.180 RCW, shall
9 provide for the contingent liability of participants in the program
10 if assets of the program are insufficient to cover the program's
11 liabilities.

12 (2) A qualifying state agency participating in a local government
13 joint self-insurance program is not liable for and is prohibited from
14 satisfying any debts or liabilities of the joint self-insurance
15 program or its participants to the extent doing so would result in
16 the creation of state debt within the meaning of Article VIII of the
17 state Constitution.

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