
SUBSTITUTE HOUSE BILL 2843

State of Washington 65th Legislature 2018 Regular Session

By House Business & Financial Services (originally sponsored by Representative Kirby)

READ FIRST TIME 01/30/18.

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 48.62.111, and 48.62.121; and adding a new section to chapter 48.62
4 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 to participate in a local government joint self-insurance
8 program covering property and liability risks.

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

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

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

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

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

33 (4) "Property and liability risks" includes the risk of property
34 damage or loss sustained by a local government entity or a qualifying
35 state agency and the risk of claims arising from the tortious or
36 negligent conduct or any error or omission of the local government
37 entity or qualifying state agency, its officers, employees, agents,
38 or volunteers as a result of which a claim may be made against the
39 local government entity or qualifying state agency.

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

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

8 (~~(6)~~) (7) "Self-insurance" means a formal program of advance
9 funding and management of entity financial exposure to a risk of loss
10 that is not transferred through the purchase of an insurance policy
11 or contract.

12 (~~(7)~~) (8) "State risk manager" means the risk manager of the
13 office of risk management within the department of enterprise
14 services.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.62
16 RCW to read as follows:

17 A qualifying state agency may participate in a local government
18 joint self-insurance program formed or operating in accordance with
19 this chapter.

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

22 (1) The governing body of a local government entity may
23 individually self-insure, may join or form a self-insurance program
24 together with other entities, including qualifying state agencies,
25 and may jointly purchase insurance or reinsurance with those other
26 entities for property and liability risks, and health and welfare
27 benefits only as permitted under this chapter. In addition, the
28 entity or entities may contract for or hire personnel to provide risk
29 management, claims, and administrative services in accordance with
30 this chapter.

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

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

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

1 (a) Contract or otherwise provide for risk management and loss
2 control services;

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

5 (c) Consult with the state insurance commissioner and the state
6 risk manager;

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

9 (e) Obligate the program's participants to pledge revenues or
10 contribute money to secure the obligations or pay the expenses of the
11 program, including the establishment of a reserve or fund for
12 coverage; and

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

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

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

24 (a) Service upon the risk manager as attorney shall constitute
25 service upon the program. Service upon joint insurance programs
26 subject to chapter 30, Laws of 1991 sp. sess. can be had only by
27 service upon the risk manager. At the time of service, the plaintiff
28 shall pay to the risk manager a fee to be set by the risk manager,
29 taxable as costs in the action.

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

35 (c) The appointment of the risk manager as attorney shall be
36 irrevocable, shall bind any successor in interest or to the assets or
37 liabilities of the joint self-insurance program, and shall remain in
38 effect as long as there is in force in this state any contract made
39 by the joint self-insurance program or liabilities or duties arising
40 therefrom.

1 (d) The risk manager shall keep a record of the day and hour of
2 service upon him or her of all legal process. A copy of the process,
3 by registered mail with return receipt requested, shall be sent by
4 the risk manager, to the person designated for the purpose by the
5 joint self-insurance program in its most recent such designation
6 filed with the risk manager. No proceedings shall be had against the
7 joint self-insurance program, and the program shall not be required
8 to appear, plead, or answer, until the expiration of forty days after
9 the date of service upon the risk manager.

10 **Sec. 5.** RCW 48.62.111 and 2003 c 248 s 20 are each amended to
11 read as follows:

12 (1) The assets of a joint self-insurance program governed by this
13 chapter may be invested only in accordance with the general
14 investment authority that participating (~~local government entities~~)
15 members possess as a governmental entity.

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

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

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

1 the treasurer shall record all money as the program may direct by
2 resolution.

3 (4) The treasurer of the joint program shall deposit all program
4 funds in a public depository or depositories as defined in RCW
5 39.58.010(~~(+2)~~)(15) and under the same restrictions, contracts, and
6 security as provided for any participating (~~local government~~
7 ~~entity~~) member, and the depository shall be designated by resolution
8 of the program.

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

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

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

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

24 **Sec. 6.** RCW 48.62.121 and 2009 c 162 s 29 are each amended to
25 read as follows:

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

38 (2)(a) No local government entity may participate in a joint
39 self-insurance program in which local government entities do not

1 retain complete governing control. This prohibition does not apply
2 to:

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

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

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

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

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

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

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

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

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

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

34 (5) Every individual and joint local government self-insured
35 health and welfare benefits program that provides comprehensive
36 coverage for health care services shall include mandated benefits
37 that the state health care authority is required to provide under RCW
38 41.05.170 and 41.05.180. The state risk manager may adopt rules
39 identifying the mandated benefits.

1 (6) An employee health and welfare benefit program established as
2 a trust shall contain a provision that trust funds be expended only
3 for purposes of the trust consistent with statutes and rules
4 governing the local government or governments creating the trust.

--- END ---