
SUBSTITUTE SENATE BILL 5387

State of Washington

62nd Legislature

2011 Regular Session

By Senate Financial Institutions, Housing & Insurance (originally sponsored by Senators Hobbs, Litzow, and Haugen)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to additional requirements for the oversight of
2 regulated self-insurance programs by the state risk manager; amending
3 RCW 48.62.011, 48.62.031, 48.62.061, 48.62.071, 48.62.091, 48.62.121,
4 48.62.161, and 48.62.171; and adding new sections 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 to
7 read as follows:

8 This chapter is intended to provide the exclusive source of local
9 government entity authority to individually or jointly self-insure
10 risks, jointly purchase insurance or reinsurance, and to contract for
11 risk management, claims, and administrative services. This chapter
12 (~~shall~~) must 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. In
15 addition, this chapter is intended to provide the state risk manager
16 with regulatory authority over joint property and liability self-
17 insurance programs and local government self-insured employee health
18 and welfare benefit programs. This chapter is intended to require
19 prior approval by the state risk manager for the establishment of every

1 individual local government self-insured employee health and welfare
2 benefit program and for the establishment and continuation of every
3 joint local government self-insurance program through an annual
4 operating certificate. In addition, this chapter is intended to
5 require every local government entity that establishes a self-insurance
6 program not subject to prior approval to notify the state of the
7 existence of the program and to comply with the regulatory and
8 statutory standards governing the management and operation of the
9 programs as provided in this chapter. This chapter is not intended to
10 authorize or regulate self-insurance of unemployment compensation under
11 chapter 50.44 RCW, or industrial insurance under chapter 51.14 RCW.

12 **Sec. 2.** RCW 48.62.031 and 2005 c 147 s 1 are each amended to read
13 as follows:

14 (1) The governing body of a local government entity may
15 individually self-insure, may join or form a self-insurance program
16 together with other entities, and may jointly purchase insurance or
17 reinsurance with other entities for property and liability risks, and
18 health and welfare benefits only as permitted under this chapter. In
19 addition, the entity or entities may contract for or hire personnel to
20 provide risk management, claims, and administrative services in
21 accordance with this chapter.

22 (2) The agreement to form a joint self-insurance program (~~shall~~)
23 must be made under chapter 39.34 RCW and may create a separate legal or
24 administrative entity with powers delegated thereto. Such entity may
25 include or create a nonprofit corporation organized under chapter 24.03
26 or 24.06 RCW or a partnership organized under chapter 25.04 RCW.

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

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

32 (a) Contract or otherwise provide for risk management and loss
33 control services;

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

36 (c) Consult with the state insurance commissioner and the state
37 risk manager;

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

3 (e) Obligate the program's participants to pledge revenues or
4 contribute money to secure the obligations or pay the expenses of the
5 program, including the establishment of a reserve or fund for coverage;
6 and

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

9 (5) A local government entity that has decided to assume a risk of
10 loss must have available for inspection by the state auditor and the
11 state risk manager a written report indicating the class of risk or
12 risks the governing body of the entity has decided to assume.

13 (6) Every joint self-insurance program governed by this chapter
14 (~~shall~~) must appoint the state risk manager as its attorney-in-fact
15 to receive service of, and upon whom (~~shall~~) must be served, all
16 legal process issued against it in this state upon causes of action
17 arising in this state.

18 (a) Service upon the state risk manager as attorney (~~shall~~)
19 constitutes service upon the program. Service upon joint insurance
20 programs (~~subject to chapter 30, Laws of 1991 1st sp. sess.~~) can be
21 had only by service upon the state risk manager. At the time of
22 service, the plaintiff (~~shall~~) must pay to the state risk manager a
23 fee to be set by the state risk manager, taxable as costs in the
24 action.

25 (b) With the initial (~~filing for approval~~) application or renewal
26 of an operating certificate with the state risk manager, each joint
27 self-insurance program (~~shall~~) must designate by name and address the
28 person to whom the state risk manager (~~shall~~) must forward legal
29 process so served upon him or her. The joint self-insurance program
30 may change such person by filing a new designation.

31 (c) The appointment of the state risk manager as (~~attorney shall~~
32 ~~be~~) attorney-in-fact is irrevocable, (~~shall~~) binds any successor in
33 interest or to the assets or liabilities of the joint self-insurance
34 program, and (~~shall~~) remains in effect as long as there is in force
35 in this state any contract made by the joint self-insurance program or
36 liabilities or duties arising therefrom.

37 (d) The state risk manager (~~shall~~) must keep a record of the day
38 and hour of service upon him or her of all legal process. A copy of

1 the process, by registered mail with return receipt requested,
2 (~~shall~~) must be sent by the state risk manager, to the person
3 designated for the purpose by the joint self-insurance program in its
4 most recent such designation filed with the state risk manager. No
5 proceedings (~~shall~~) may be had against the joint self-insurance
6 program, and the program (~~shall~~) is not (~~be~~) required to appear,
7 plead, or answer, until the expiration of forty days after the date of
8 service upon the state risk manager.

9 **Sec. 3.** RCW 48.62.061 and 2010 1st sp.s. c 7 s 55 are each amended
10 to read as follows:

11 The state risk manager (~~shall~~) must adopt rules governing the
12 management and operation of both individual and joint local government
13 self-insurance programs covering property or liability risks. The
14 state risk manager (~~shall~~) must also adopt rules governing the
15 management and operation of both individual and joint local government
16 self-insured health and welfare benefits programs. All rules (~~shall~~)
17 must be appropriate for the type of program and class of risk covered.
18 The state risk manager's rules (~~shall~~) must include:

19 (1) Standards for the management, operation, and solvency of self-
20 insurance programs, including the necessity and frequency of actuarial
21 analyses and claims audits;

22 (2) Standards for claims management procedures; (~~and~~)

23 (3) Standards for contracts between self-insurance programs and
24 private businesses including standards for contracts between third-
25 party administrators and programs; and

26 (4) Standards for qualifications and the selection of trustees to
27 terminate the operations of any joint self-insurance program.

28 **Sec. 4.** RCW 48.62.071 and 1991 sp.s. c 30 s 7 are each amended to
29 read as follows:

30 (~~Before the establishment of a~~) Every joint self-insurance
31 program covering property or liability risks by local government
32 entities(~~(, or an individual or)~~) and every joint local government
33 self-insured health and welfare benefits program(~~(, the entity or~~
34 ~~entities)~~) must obtain (~~the approval of~~) an operating certificate
35 from the state risk manager in accordance with this act. State risk
36 manager approval is not required for the establishment of an individual

1 local government self-insurance program covering property or liability
2 risks. Prior approval is required, but an operating certificate is not
3 required, for an individual local government self-insurance program
4 covering health and welfare benefits. The entity or entities proposing
5 creation of a self-insurance program requiring prior approval (~~shall~~)
6 must submit a plan of management and operation to the state risk
7 manager and the state auditor that provides at least the following
8 information:

9 (1) The risk or risks to be covered, including any coverage
10 definitions, terms, conditions, and limitations or in the case of
11 health and welfare benefits programs, the benefits to be provided,
12 including any benefit definitions, terms, conditions, and limitations;

13 (2) The amount and method of financing the benefits or covered
14 risks, including the initial capital and proposed rates and projected
15 premiums;

16 (3) The proposed claim reserving practices;

17 (4) The proposed purchase and maintenance of insurance or
18 reinsurance in excess of the amounts retained by the self-insurance
19 program;

20 (5) In the case of a joint program, the legal form of the program,
21 including but not limited to any bylaws, charter, or trust agreement;

22 (6) In the case of a joint program, the agreements with members of
23 the program defining the responsibilities and benefits of each member
24 and management;

25 (7) The proposed accounting, depositing, and investment practices
26 of the program;

27 (8) The proposed time when actuarial analysis will be first
28 conducted and the frequency of future actuarial analysis;

29 (9) A designation of the individual upon whom service of process
30 (~~shall~~) must be executed on behalf of the program. In the case of a
31 joint program, a designation of the individual to whom service of
32 process (~~shall~~) must be forwarded by the state risk manager on behalf
33 of the program;

34 (10) All contracts between the program and private persons
35 providing risk management, claims, or other administrative services;

36 (11) A professional analysis of the feasibility of creation and
37 maintenance of the program; and

1 (12) Any other information required by (~~rule of~~) the state risk
2 manager that is necessary to determine the probable financial and
3 management success of the program or that is necessary to determine
4 compliance with this chapter.

5 **Sec. 5.** RCW 48.62.091 and 1991 sp.s. c 30 s 9 are each amended to
6 read as follows:

7 (1) (~~Within one hundred twenty days of receipt of a plan of~~
8 ~~management and operation, the state risk manager shall either approve~~
9 ~~or disapprove the formation of the self insurance program after~~
10 ~~reviewing the plan to determine whether the proposed program complies~~
11 ~~with this chapter and all rules adopted in accordance with this~~
12 ~~chapter.~~

13 (2) ~~If the state risk manager denies a request for approval, the~~
14 ~~state risk manager shall specify in detail the reasons for denial and~~
15 ~~the manner in which the program fails to meet the requirements of this~~
16 ~~chapter or any rules adopted in accordance with this chapter.~~

17 (3)) Whenever the state risk manager determines that a joint self-
18 insurance program covering property or liability risks or an individual
19 or joint self-insured health and welfare benefits program is in
20 violation of this chapter or is operating in an unsafe financial
21 condition, the state risk manager may issue and serve upon the program
22 an order to cease and desist from the violation or practice that
23 resulted in an unsafe financial condition or may deny or revoke an
24 operating certificate.

25 (a) The state risk manager (~~shall~~) must deliver the order to the
26 appropriate entity or entities directly or mail it to the appropriate
27 entity or entities by registered mail with return receipt requested.

28 (b) If the program violates the order or has not taken steps to
29 comply with the order after the expiration of twenty days after the
30 cease and desist order has been received by the program, the program is
31 deemed to be operating in violation of this chapter, and the state risk
32 manager (~~shall~~) must notify the state auditor (~~and the attorney~~
33 ~~general of the violation.~~

34 (c) ~~After hearing or with the consent of a program governed by this~~
35 ~~chapter and in addition to or in lieu of a continuation of the cease~~
36 ~~and desist order, the risk manager may levy a fine upon the program in~~
37 ~~an amount not less than three hundred dollars and not more than ten~~

1 thousand dollars. The order levying such fine shall specify the period
2 within which the fine shall be fully paid. The period within which
3 such fines shall be paid shall not be less than fifteen nor more than
4 thirty days from the date of such order. Upon failure to pay any such
5 fine when due the risk manager shall request the attorney general to
6 bring a civil action on the risk manager's behalf to collect the fine.
7 The risk manager shall pay any fine so collected to the state treasurer
8 for the account of the general fund)) The state risk manager may bring
9 an action to enjoin the unsafe practices or acts that violate this
10 chapter or engage in other actions that are necessary to terminate the
11 self-insurance program.

12 ((+4)) (2) Each joint self-insurance program approved by the state
13 risk manager ((shall)) must obtain an annual audited financial
14 statement opinion within six months of the program's fiscal year end.
15 Every joint self-insurance program approved by the state risk manager
16 must annually file a report with the state risk manager and state
17 auditor providing:

- 18 (a) Details of any changes in the articles of incorporation,
19 bylaws, or interlocal agreement;
- 20 (b) Copies of all the insurance coverage documents;
- 21 (c) A description of the program structure, including participants'
22 retention, program retention, and excess insurance limits and
23 attachment point;
- 24 (d) An actuarial analysis, if required;
- 25 (e) A list of contractors and service providers;
- 26 (f) The financial and loss experience of the program; and
- 27 (g) Such other information as required by rule of the state risk
28 manager.

29 ((+5)) (3) The annual report required in subsection (2) of this
30 section is not required of joint self-insurance programs that have an
31 operating certificate.

32 (4) No self-insurance program requiring the state risk manager's
33 approval may engage in an act or practice that in any respect
34 significantly differs from the management and operation plan that
35 formed the basis for the state risk manager's approval of the program
36 unless the program first notifies the state risk manager in writing and
37 obtains the state risk manager's approval. The state risk manager
38 ((shall)) must approve or disapprove the proposed change within sixty

1 days of receipt of the notice. If the state risk manager denies a
2 requested change, the risk manager (~~shall~~) must specify in detail the
3 reasons for denial and the manner in which the program would fail to
4 meet the requirements of this chapter or any rules adopted in
5 accordance with this chapter.

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

8 (1) No employee or official of a local government entity may
9 directly or indirectly receive anything of value for services rendered
10 in connection with the operation and management of a self-insurance
11 program other than the salary and benefits provided by his or her
12 employer or the reimbursement of expenses reasonably incurred in
13 furtherance of the operation or management of the program. No employee
14 or official of a local government entity may accept or solicit anything
15 of value for personal benefit or for the benefit of others under
16 circumstances in which it can be reasonably inferred that the
17 employee's or official's independence (~~of~~) or judgment is impaired
18 with respect to the management and operation of the program.

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

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

25 (ii) Local government participation in a multistate joint program
26 where control is shared with local government entities from other
27 states; or

28 (iii) Local government contribution to a self-insured employee
29 health and welfare benefit trust in which the local government shares
30 governing control with their employees.

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

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

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

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

3 (3) Moneys made available and moneys expended by school districts
4 and educational service districts for self-insurance under this chapter
5 are subject to such rules of the superintendent of public instruction
6 as the superintendent may adopt governing budgeting and accounting.
7 However, the superintendent (~~shall~~) must ensure that the rules are
8 consistent with those adopted by the state risk manager for the
9 management and operation of self-insurance programs.

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

13 (5) Every individual and joint local government self-insured health
14 and welfare benefits program that provides comprehensive coverage for
15 health care services (~~shall~~) must include mandated benefits that the
16 state health care authority is required to provide under RCW 41.05.170
17 and 41.05.180. The state risk manager may adopt rules identifying the
18 mandated benefits.

19 (6) An employee health and welfare benefit program established as
20 a trust (~~shall~~) must contain a provision that trust funds be expended
21 only for purposes of the trust consistent with statutes and rules
22 governing the local government or governments creating the trust.

23 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.62 RCW
24 to read as follows:

25 (1) Any entity or entities proposing the creation of a joint self-
26 insurance program must apply to the state risk manager for an initial
27 operating certificate.

28 (2) Any joint self-insurance program currently in operation must
29 apply for an initial operating certificate no later than four months
30 before the expiration of the program's fiscal year 2013 to continue
31 operations.

32 (3) An operating certificate is subject to an annual renewal based
33 on the joint self-insurance program's fiscal year end. Operating
34 certificates continue in force until revoked or not renewed.

35 (4) The state risk manager must issue a written decision on an
36 application for an initial operating certificate to create a joint

1 self-insurance program within one hundred twenty days following
2 submission of the application.

3 (5) The state risk manager must issue a written decision on an
4 application for an initial operating certificate from a joint self-
5 insurance program currently in operation or an application for renewal
6 within sixty days following submission of the application.

7 (6) Decisions may be appealed under section 19 of this act.

8 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.62 RCW
9 to read as follows:

10 Applications to create or to renew a joint self-insurance program
11 must contain the following information:

12 (1) Articles of incorporation, bylaws, or interlocal agreement;

13 (2) Copies of all the insurance coverage documents;

14 (3) A description of the program structure, including participants'
15 retention, program retention, and excess insurance limits and
16 attachment point;

17 (4) An actuarial analysis;

18 (5) A list of contractors and service providers; and

19 (6) Such other information as required by rule of the state risk
20 manager.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 48.62 RCW
22 to read as follows:

23 (1) Joint self-insurance programs may purchase insurance policies
24 or reinsurance certificates to transfer risk of financial exposure of
25 the program and its members to an insurance or reinsurance carrier
26 through execution of a written policy.

27 (2) Joint self-insurance programs must establish claim reserves to
28 fund a deductible for those losses that are not transferred to the
29 insurance or reinsurance carrier, insurance and reinsurance premium
30 costs, and the risk not transferred to the insurance or reinsurance
31 carrier.

32 (3) All joint self-insurance programs may transfer to an excess
33 insurer or reinsurer any risk of financial loss that the program
34 chooses not to self-insure. Moneys are not required to be collected or
35 maintained for the risks transferred through a written insurance policy
36 to an insurance or reinsurance carrier.

1 (4) Only those portions of risk not transferred by an insurance
2 policy or reinsurance certificate, such as the shared deductibles that
3 are self-insured by the program, must be considered in determining the
4 pool's liabilities.

5 (5) The pool's actuary must include in the annual actuarial
6 estimate of the program's liabilities, only that portion of the
7 liabilities for losses that are self-insured by the joint self-
8 insurance program. All risks transferred through the purchase of
9 insurance or reinsurance are not included in the estimates of the
10 program's liabilities and do not require any funding be put aside for
11 any liabilities that are not the responsibility of the pool.

12 (6) Any insurance policy or reinsurance certificate that reduces
13 the risk of financial loss of the joint self-insurance program and its
14 members shall include in its policy a requirement to provide a copy of
15 the policy or certificate directly to the state risk manager. Any
16 insurance policy or reinsurance certificate which reduces the risk of
17 loss of the joint self-insurance program and its members shall include
18 in its policy or certificate a requirement that notice of any
19 cancellation, termination, or change in any provision of that policy of
20 the joint self-insurance program must be provided directly to the state
21 risk manager.

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 48.62 RCW
23 to read as follows:

24 (1) If the state risk manager finds that a joint self-insurance
25 program has met the requirements of this chapter and rules adopted by
26 the state risk manager, he or she must issue to it an operating
27 certificate.

28 (2) The state risk manager may deny, refuse to renew, or revoke a
29 joint self-insurance program's operating certificate if the program:

- 30 (a) Fails to submit an application with all required information;
- 31 (b) Fails to meet the requirements of this chapter and rules
32 adopted by the state risk manager;
- 33 (c) Is operating in an unsafe financial condition;
- 34 (d) Fails to comply with any proper order of the state risk manager
35 or operating certificate condition;
- 36 (e) Is not current with paying its assessments and other fees due

1 to the state risk manager, including those charged for reviews and
2 investigations.

3 NEW SECTION. **Sec. 11.** A new section is added to chapter 48.62 RCW
4 to read as follows:

5 This act does not affect any agreement established between the
6 state risk manager and joint self-insurance program effective prior to
7 the effective date of this section. If a joint self-insurance program
8 is in compliance with any agreement between the program and the state
9 risk manager, the state risk manager shall find the program in
10 compliance with the requirements of this act and issue or renew the
11 program's operating certificate.

12 NEW SECTION. **Sec. 12.** A new section is added to chapter 48.62 RCW
13 to read as follows:

14 (1) In lieu of denial, the state risk manager may issue a
15 conditional operating certificate to joint self-insurance programs.
16 Conditions imposed by the state risk manager, after consultation with
17 financial auditors, must include those actions that the state risk
18 manager, in his or her sole discretion, determines are reasonably
19 necessary to ensure compliance with the requirements of this chapter or
20 rules adopted by the state risk manager.

21 (2) A conditional operating certificate will be of limited
22 duration, not to exceed one year, and no conditional operating
23 certificate may be issued consecutively.

24 NEW SECTION. **Sec. 13.** A new section is added to chapter 48.62 RCW
25 to read as follows:

26 The state risk manager must give a joint self-insurance program
27 written notice of his or her intent to revoke an operating certificate
28 not less than thirty days before the revocation is to become effective.
29 The state risk manager must specify in detail the reasons for the
30 revocation. Decisions under this section may be appealed under section
31 19 of this act.

32 NEW SECTION. **Sec. 14.** A new section is added to chapter 48.62 RCW
33 to read as follows:

34 If an operating certificate is not renewed or revoked, the state

1 risk manager must take all necessary action to terminate the operation
2 of the joint self-insurance program. The state risk manager may
3 appoint a trustee to act on his or her behalf. All costs for the
4 termination of the program, including trustee costs, must be paid by
5 the program. The state risk manager or trustee must immediately take
6 charge of the self-insurance program and all of its property, books,
7 records, and effects. The state risk manager or trustee may hire
8 financial experts, hire and fire employees, terminate contracts, act on
9 behalf of the board and the members to wind down the program, provide
10 insurance options for the members to cover outstanding claims and
11 lawsuits, and determine the amount of reassessments to all members to
12 cover the final costs of the program upon termination of the joint
13 self-insurance program. The trustee may pursue all other actions
14 necessary to terminate the program as the state risk manager reviews
15 and approves.

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

18 In addition to the powers otherwise granted in this chapter, the
19 state risk manager has the power to:

20 (1) Commence and prosecute actions and proceedings, to enjoin
21 violations of this chapter, and to collect sums due to the state of
22 Washington;

23 (2) Contact insurers or reinsurers to verify insurance coverage or
24 receivables owed to the joint self-insurance program;

25 (3) Contact members to verify receivables or reassessments that are
26 included in the books and records of the joint self-insurance program
27 owed by any member; and

28 (4) Delegate in writing any power or duty vested in the state risk
29 manager to his or her employees as deemed necessary for efficient
30 administration of this chapter and rules adopted by the state risk
31 manager.

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

34 The state risk manager must review the management, operations,
35 transactions, accounts, records, documents, and assets of any
36 authorized joint self-insured property and liability program and any

1 individual and joint local government self-insurance health and welfare
2 program as often as he or she deems advisable, but not less frequently
3 than every three years. The state risk manager must conduct or
4 contract for such review or investigation.

5 (1) The state risk manager may review or investigate any third-
6 party administrator of a program insofar as that review or
7 investigation is necessary or material to the review or investigation
8 of the program.

9 (2) The program, its officers, employees, and representatives must
10 produce and timely make freely accessible to the state risk manager's
11 employee, representative, and agent the accounts, records, documents,
12 and files in his or her possession or control relating to the subject
13 of the review or investigation, and must otherwise facilitate the
14 review or investigation. The program's failure to timely produce such
15 accounts, records, documents, and files within thirty days of a written
16 request, may result in the denial or revocation of an operating
17 certificate or an order to cease and desist.

18 **Sec. 17.** RCW 48.62.161 and 2010 1st sp.s. c 7 s 56 are each
19 amended to read as follows:

20 (1) The state risk manager (~~((shall))~~) must establish and charge an
21 investigation fee in an amount necessary to cover the costs for the
22 initial review and approval of a self-insurance program. The fee must
23 accompany the initial submission of the plan of operation and
24 management.

25 (2) The costs of subsequent reviews and investigations (~~((shall))~~)
26 must be charged to the self-insurance program being reviewed or
27 investigated in accordance with the actual time and expenses incurred
28 in the review or investigation.

29 (3) The state risk manager may calculate, levy, and collect from
30 each joint property and liability self-insurance program and each
31 individual and joint health and welfare benefit program regulated by
32 this chapter a start-up assessment to pay initial expenses and
33 operating costs of the risk manager's office in administering this
34 chapter. Any program failing to remit its assessment when due is
35 subject to (~~((denial of permission to operate))~~) revocation or nonrenewal
36 of its operating certificate or to a cease and desist order until the
37 assessment is paid.

1 **Sec. 18.** RCW 48.62.171 and 1991 sp.s. c 30 s 17 are each amended
2 to read as follows:

3 (1) Any person who files reports or furnishes other information
4 required under Title 48 RCW, required by the risk manager or the state
5 auditor under authority granted by Title 48 RCW, or which is useful to
6 the state risk manager or the state auditor in the administration of
7 Title 48 RCW, (~~shall be~~) is immune from liability in any civil action
8 or suit arising from the filing of any such report or furnishing such
9 information to the state risk manager or to the state auditor, unless
10 actual malice, fraud, or bad faith is shown.

11 (2) The state risk manager and the state auditor, and the agents
12 and employees of each, are immune from liability in any civil action or
13 suit arising from the publication of any report or bulletins or arising
14 from dissemination of information related to the official activities of
15 the state risk manager(~~, the advisory boards,~~) or the state auditor,
16 unless actual malice, fraud, or bad faith is shown.

17 (3) No cause of action may arise nor may any liability be imposed
18 against the state risk manager, his or her employees, authorized
19 representatives, or trustee appointed by the state risk manager, for
20 statements made or conduct performed in good faith while carrying out
21 this chapter.

22 (4) The immunity granted by this section is in addition to any
23 common law or statutory privilege or immunity enjoyed by such person,
24 and nothing in this section is intended to abrogate or modify in any
25 way such common law or statutory privilege or immunity.

26 NEW SECTION. **Sec. 19.** A new section is added to chapter 48.62 RCW
27 to read as follows:

28 (1) The director of the office of financial management or
29 director's appointed designee may hold a hearing for any purpose within
30 the scope of this chapter as he or she may deem necessary. The
31 director must hold a hearing:

32 (a) If required by any provision of this chapter; or

33 (b) Upon written demand for a hearing made by any person aggrieved
34 by any act or failure of the state risk manager to act under any
35 provision of this chapter.

36 (2) Any such demand for a hearing must specify in what respects

1 such person is so aggrieved and the grounds to be relied upon as basis
2 for the relief to be demanded at the hearing.

3 (3) Unless a person aggrieved by a written order of the state risk
4 manager demands a hearing thereon within ninety days after receiving
5 notice of such order, the right to such hearing is conclusively deemed
6 to have been waived.

7 (4) If a hearing is demanded for action taken under RCW 48.62.031,
8 48.62.061, 48.62.071, 48.62.091, 48.62.121, 48.62.161, 48.62.171, or
9 sections 7 through 16 of this act, the director must hold the hearing
10 demanded within thirty days after receipt of the demand, unless
11 postponed by mutual consent.

12 (5) The director, director's delegate, or an administrative law
13 judge appointed under chapter 34.12 RCW may conduct hearings,
14 administer oaths or affirmations, or upon the director's or delegate's
15 or administrative law judge's motion or upon request of any party may
16 subpoena witnesses, compel attendance, take depositions, take evidence,
17 or require the production of any matter which is relevant to the
18 investigation or proceeding, including but not limited to the
19 existence, description, nature, custody, condition, or location of any
20 books, documents, or other tangible things, or the identity or location
21 of persons having knowledge or relevant facts, or any other matter
22 reasonably calculated to lead to the discovery of material evidence.

23 (6) Upon failure to obey a subpoena or to answer questions
24 propounded by the administrative law judge, director, or director's
25 designee and upon reasonable notice to all persons affected thereby,
26 the director may apply to the superior court for an order compelling
27 compliance.

28 (7) Except as otherwise provided in this chapter, all proceedings
29 under this chapter must be in accordance with the administrative
30 procedure act, chapter 34.05 RCW.

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