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**SENATE BILL 5584**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Mullet, Takko, Wilson, L., and Hobbs; by request of Board of Pilotage Commissioners

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

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

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

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

1 programs as provided in this chapter. This chapter is not intended to  
2 authorize or regulate self-insurance of unemployment compensation  
3 under chapter 50.44 RCW, or industrial insurance under chapter 51.14  
4 RCW.

5 (2) This chapter is further intended to enable the board of  
6 pilotage commissioners to participate in a local government joint  
7 self-insurance program covering liability risks.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.62  
9 RCW to read as follows:

10 The board of pilotage commissioners may participate in a local  
11 government joint self-insurance program formed or operating in  
12 accordance with this chapter. The board of pilotage commissioners may  
13 participate in the program to obtain liability insurance coverage,  
14 but not property insurance coverage.

15 **Sec. 3.** RCW 48.62.031 and 2015 c 109 s 3 are each amended to  
16 read as follows:

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

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

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

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

34 (a) Contract or otherwise provide for risk management and loss  
35 control services;

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

1 (c) Consult with the state insurance commissioner and the state  
2 risk manager;

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

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

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

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

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

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

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

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

37 (d) The risk manager shall keep a record of the day and hour of  
38 service upon him or her of all legal process. A copy of the process,  
39 by registered mail with return receipt requested, shall be sent by  
40 the risk manager, to the person designated for the purpose by the

1 joint self-insurance program in its most recent such designation  
2 filed with the risk manager. No proceedings shall be had against the  
3 joint self-insurance program, and the program shall not be required  
4 to appear, plead, or answer, until the expiration of forty days after  
5 the date of service upon the risk manager.

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

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

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

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

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

37 (4) The treasurer of the joint program shall deposit all program  
38 funds in a public depository or depositories as defined in RCW  
39 39.58.010(~~(+2)~~) (15) and under the same restrictions, contracts, and

1 security as provided for any participating (~~local government~~  
2 ~~entity~~) member, and the depository shall be designated by resolution  
3 of the program.

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

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

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

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

19 **Sec. 5.** RCW 48.62.121 and 2009 c 162 s 29 are each amended to  
20 read as follows:

21 (1) No employee or official of a local government entity or the  
22 board of pilotage commissioners may directly or indirectly receive  
23 anything of value for services rendered in connection with the  
24 operation and management of a self-insurance program other than the  
25 salary and benefits provided by his or her employer or the  
26 reimbursement of expenses reasonably incurred in furtherance of the  
27 operation or management of the program. No employee or official of a  
28 local government entity or the board of pilotage commissioners may  
29 accept or solicit anything of value for personal benefit or for the  
30 benefit of others under circumstances in which it can be reasonably  
31 inferred that the employee's or official's independence of judgment  
32 is impaired with respect to the management and operation of the  
33 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 the board of pilotage commissioners, as authorized in  
12 section 2 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.

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