

government and its existing public institutions, and shall take effect July 1, 1979.

Passed the Senate June 1, 1979.

Passed the House June 1, 1979.

Approved by the Governor June 21, 1979.

Filed in Office of Secretary of State June 21, 1979.

CHAPTER 256

[Substitute House Bill No. 56]

LOCAL GOVERNMENTS—INSURANCE PURCHASE, SELF-INSURANCE

AN ACT Relating to local government; amending section .01.05, chapter 79, Laws of 1947 as amended by section 1, chapter 13, Laws of 1975-'76 2nd ex. sess. and RCW 48.01.050; and adding new sections to Title 48 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. The legislature finds that local governmental entities in this state are experiencing a trend of vastly increased insurance premiums for the renewal of identical insurance policies, that fewer insurance carriers are willing to provide local governmental entities with insurance coverage, and that some local governmental entities are unable to obtain desired insurance coverage.

It is the intent of this legislation to clearly provide for the authority of local governmental entities to individually self-insure, purchase individual insurance coverage, and obtain risk management services. It is also the intent of this legislation to grant local governmental entities the maximum flexibility to enter into agreements with each other to provide joint programs, which include programs for the joint purchasing of insurance, joint self-insuring, and joint contracting for or hiring personnel to provide risk management services.

NEW SECTION. Sec. 2. As used in sections 1 through 12 of this act, the term "local governmental entity" shall mean every unit of local government, both general purpose and special purpose, and shall include, but not be limited to, counties, cities, towns, port districts, public utility districts, water districts, sewer districts, school districts, fire protection districts, irrigation districts, metropolitan municipal corporations, conservation districts, and other political subdivisions, governmental subdivisions, municipal corporations, and quasi municipal corporations.

NEW SECTION. Sec. 3. The governing body of any local governmental entity may, as an alternative or in addition to the establishment of a self-insurance fund or the purchasing of insurance, contract for or hire personnel to provide risk management services. Funds made available and funds expended by school districts and educational service districts for the purpose of implementing any provision of sections 1 through 12 of this act

or RCW 36.16.138 shall be subject to such rules of the superintendent of public instruction as the superintendent may adopt governing the budgeting and accounting of such funds.

NEW SECTION. Sec. 4. The governing body of any one or more local governmental entities may, as an alternative or in addition to exercising any one or more of the powers granted in section 3 of this act and RCW 36.16-.138, as now or hereafter amended, or any other provision of law, form together into or join a pool or organization for the joint purchasing of insurance, and/or joint self-insuring, and/or joint hiring or contracting for risk management services to the same extent that they may individually purchase insurance, self-insure, or hire or contract for risk management services: PROVIDED, That no organization of local governmental entities that is organized under section 4 of this act for the purpose of self-insuring shall provide any self-insurance other than liability insurance. For purposes of this section, liability insurance shall include but not be limited to coverage for claims arising from the tortious or negligent conduct of the local government entity, its officers, employees, or agents thereof, or any error or omission on the part of said local government entity, its officers, employees or agents thereof as a result of which a claim may be made against the local government entity. The agreement to form such a pooling arrangement shall be made under chapter 39.34 RCW.

Any pool or organization authorized to be formed by this section shall be subject to audit by the state auditor.

NEW SECTION. Sec. 5. Prior to the establishment of a joint self-insurance pool by any organization of local governmental entities that is organized under section 4 of this act for the purpose of self-insuring through a contributing trust, approval of the establishment of such self-insurance pool shall be obtained from the state risk manager pursuant to RCW 43-.19.19362 in accordance with the following procedure:

(1) A proposed plan of organization and operation, including the following elements shall be submitted;

(a) A financial plan specifying:

(i) The coverage to be offered by the self-insurance pool, setting forth the deductible level and the maximum level of claims which the pool will self-insure;

(ii) The amount of cash reserves to be set aside for the payment of claims;

(iii) The amount of insurance to be purchased over and above the amount of claims to be satisfied directly from the organization's resources;

(iv) The amount of stop-loss coverage to be purchased in the event that the joint self-insurance pool's resources are exhausted in a given fiscal period; and

(v) Certification that the participating local governmental entities in the self-insurance pool are apprised of the limitations of coverage provided and

the availability of additional coverage which may be purchased individually by the participants in the pool;

(b) A plan of management setting forth the means of fulfilling the requirements of section 9(1) of this act, the means of establishing the governing authority of the organization, and the frequency of actuarial studies to establish the periodic contribution rates for each of the participants; and

(c) A plan specifying the conditions and responsibilities of the participants, including procedures for entry into and withdrawal from the pool and the allocation of contingent liabilities pursuant to section 6 of this act.

(2) Within sixty days after receipt of the aforementioned plan, the state risk manager shall determine whether the organization proposing to create a joint self-insurance pool has complied with the procedures and provisions contained in section 5(1) of this act, and has made provision for professional management of the joint self-insurance pool pursuant to section 9(1) of this act, and has provided for the insurance coverages required in section 9 (2) and (3) of this act, and that participants in the proposed joint self-insurance pool have been informed of the deductibles and limitations established pursuant to section 9(4) of this act. If the state risk manager determines that these criteria have been met, he shall approve the plan of operation of the proposed joint self-insurance pool, and such organization shall be authorized to commence operation.

(3) If approval is denied, the state risk manager shall specify in detail the reasons for denial and the manner in which the proposed joint self-insurance pool fails to meet the requirements of this section and section 9 (1) through (4) of this act and make comments and suggestions as to means by which such deficiencies could be corrected. The provisions of RCW 34.04-.090 shall apply with regard to such basis for denial and a review thereof. If the risk manager fails to act within the time limit established in subsection (2) of this section the plan of operation of the proposed joint self-insurance pool shall be deemed approved.

NEW SECTION. Sec. 6. Any organization of local governmental entities that is organized under section 4 of this act which is established for the purpose of joint self-insuring through a contributing trust fund shall provide for the contingent liability of the participants in the event the assets of the joint self-insurance pool are not sufficient to cover its liabilities.

Each organization shall be exempt from insurance premium taxes, from chapters 48.32 and 48.32A RCW and from business and occupation taxes imposed pursuant to chapter 82.04 RCW, and from any assigned risk plan or joint underwriting authority otherwise required by law.

NEW SECTION. Sec. 7. The assets of any organization of local governmental entities that is organized under section 4 of this act which is established for the purpose of jointly self-insuring may, pursuant to section 8 of this act, be invested only in the following classes of securities and investments:

(1) Savings or time accounts in banks, trust companies, and mutual savings banks which are doing business in this state, up to the amount of insurance afforded such accounts by the federal deposit insurance corporation;

(2) Accounts in savings and loan associations which are doing business in this state, up to the amount of insurance afforded such accounts by the federal savings and loan insurance corporation;

(3) Investment deposits in banks, trust companies, mutual savings banks, and savings and loan associations, which are doing business in this state, available for investment and secured by collateral in accordance with the provisions of chapter 39.58 RCW;

(4) Certificates, notes, bonds, or other obligations or securities of the United States or any of its agencies, or of any corporation wholly owned by the government of the United States;

(5) Federal home loan bank notes and bonds, federal land bank bonds, and federal national mortgage association notes, debentures, and guaranteed certificates of participation, or the obligations of any other government-sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(6) Direct and general obligation bonds and warrants of the state of Washington or any other state of the United States;

(7) Direct and general obligation bonds and warrants of any local governmental entity of this state having the power to levy general taxes which are payable from general ad valorem taxes;

(8) Revenue bonds of this state or any authority, board, commission, committee, or similar agency thereof;

(9) Motor vehicle fund warrants when authorized by agreement between the state finance committee and the state transportation commission requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction; and

(10) Bonds, securities, and obligations which are designated to be authorized security for all public deposits pursuant to RCW 35.58.510, 35.81-.110, 35.82.220, 39.60.030, 39.60.040, and 54.24.120.

NEW SECTION. Sec. 8. Any organization of local governmental entities that is organized under section 4 of this act which is established for the purpose of jointly self-insuring may invest all or a portion of its assets by one or more of the following methods:

(1) Directly invest such assets itself; or

(2) Deposit such assets with the treasurer of any county within whose territorial limits any of its member local governmental entities lies to be invested by such treasurer for the organization.

NEW SECTION. Sec. 9. Any organization of local governmental entities that is organized under section 4 of this act which elects to provide pooled self-insurance shall satisfy the following requirements:

- (1) Contract with a professional insurance management corporation or otherwise provide for the management and operation of any joint self-insurance pool established by the organization;
- (2) Provide for umbrella coverage for the participating local governmental entities;
- (3) Provide insurance coverage for those claims which the organization plans to jointly self-insure, such coverage to be effective only in the event of the exhaustion of the joint self-insurance pool's resources for a given fiscal period;
- (4) Establish deductibles and/or limits to any coverage that is provided; and
- (5) Provide an annual report of the operations of the organization to the participating entities, the state risk manager, and the state insurance commissioner.

NEW SECTION. Sec. 10. Any organization of local governmental entities that is organized under section 4 of this act shall have the flexibility to perform its functions and at its option may, if such functions and actions are within its purview as established by the agreement or contract adopted pursuant to chapter 39.34 RCW that lists the powers and functions of the organization, do any of the following:

- (1) Contract or otherwise provide for risk management and loss control services;
- (2) Contract or otherwise provide legal counsel for the defense of claims and/or other legal services;
- (3) Consult with the state insurance commissioner and/or the state risk manager;
- (4) Jointly purchase insurance coverage in such form and amount as the organization's participants may by contract agree; and
- (5) Possess any other powers and perform all other functions reasonably necessary to carry out the purposes of this chapter.

NEW SECTION. Sec. 11. Any organization of local governmental entities that is organized under section 4 of this act may provide for private meetings to consider litigation and settlement of claims when it appears that public discussion of these matters would impair the organization's ability to conduct its business effectively.

Notwithstanding any provision to the contrary contained in the public disclosure act, chapter 42.17 RCW, in a claim or action against the state or any local governmental entity, no person shall be entitled to discover that portion of funds or liability reserve established for purposes of satisfying a claim or cause of action, except that the reserve is discoverable in any supplemental or ancillary proceeding to enforce a judgment.

NEW SECTION. Sec. 12. The provisions of RCW 48.30.140 and 48.30.150 shall not be construed in such a manner as to prevent any local governmental entity or organization of local government entities that is organized under section 4 of this act from engaging or contracting with an insurance agent or broker to purchase or obtain insurance on a fee basis.

Sec. 13. Section .01.05, chapter 79, Laws of 1947 as amended by section 1, chapter 13, Laws of 1975-'76 2nd ex. sess. and RCW 48.01.050 are each amended to read as follows:

"Insurer" as used in this code includes every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. A reciprocal or interinsurance exchange is an "insurer" as used in this code. Two or more hospitals, as defined in RCW 70.39.020(3), which join and organize as a mutual corporation pursuant to chapter 24.06 RCW for the purpose of insuring or self-insuring against liability claims, including medical liability, through a contributing trust fund shall not be deemed an "insurer" under this code. Two or more local governmental entities, as defined in section 2 of this 1979 act, which pursuant to section 4 of this 1979 act or any other provision of law join together and organize to form an organization for the purpose of jointly self-insuring shall not be deemed an "insurer" under this code.

NEW SECTION. Sec. 14. Sections 1 through 12 of this act are each added to Title 48 RCW.

Passed the House May 31, 1979.

Passed the Senate May 9, 1979.

Approved by the Governor June 21, 1979.

Filed in Office of Secretary of State June 21, 1979.

CHAPTER 257

[House Bill No. 191]

SCHOOL DISTRICT BONDS—SALE AND ISSUANCE COSTS, PAYMENT OF

AN ACT Relating to school district bonds; amending section 28A.51.070, chapter 223, Laws of 1969 ex. sess. and RCW 28A.51.070; amending section 4, chapter 244, Laws of 1969 ex. sess. as last amended by section 1, chapter 98, Laws of 1975 1st ex. sess. and RCW 28A.47.803; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 28A.51.070, chapter 223, Laws of 1969 ex. sess. and RCW 28A.51.070 are each amended to read as follows:

At the time named in said notice it shall be the duty of said board of directors to meet with the county treasurer at his office, and with him open said bids, and sell said bonds or any portion thereof to the person or persons making the most advantageous offer: PROVIDED, That said bids and the acceptance or rejection thereof and the sale of such bonds shall be in conformance with the provisions of RCW 39.44.030. Upon the sale of the