



As required by

The Washington State Administrative Procedure Act

Chapter 34.05 RCW

A CONCISE EXPLANATORY STATEMENT

Relating to adoption of changes to

Chapter 200-100 WAC

Self-Insurance Program as to Local Governments

September 20, 2022

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1. Reason for rule adoption

Background

State law under [RCW 48.62.061](#) requires the state risk manager to put rules in place governing the management and operation of both individual and joint local government related to:

- Self-insurance programs covering property or liability risks, and
- Self-insured health and welfare benefits programs.

The Office of the Code Reviser has codified these rules under [chapters 200-100 thru 200-160 WAC](#).

The Office of Risk Management is the regulator for local government risk pools. In 2019, the legislature passed [HB 1431](#) Concerning joint self-insurance programs for property and liability. In 2019, legislature made [changes to RCW 48.62](#) to allow the [State Board of Pilotage Commissioners](#) (the Board), a Washington State agency, to participate in a local government joint self-insurance program covering liability risks. Previously, no state agency was allowed to join a local government self-insurance pool. This rulemaking amends [chapter 200-100 WAC](#) to align with the changes made to the statute in 2019.

During review of the current rules, it became clear that other language may need to be amended to align with the statute to accommodate a state agency such as the Board. Some language applicable to local government members of a self-insurance pool does not necessarily apply to the Board.

The updated rule permits the Board to:

- (1) Participate in a local government joint self-insurance program covering liability risks; and
- (2) Participate in the program to obtain liability insurance coverage, but not property insurance coverage.

The Board is also prohibited from receiving anything of value for services rendered in connection with a self-insurance program.

Consideration and response summary

DES invited local governments, described above, the Washington State Auditor's Office (conducts financial audits of these programs), the Office of Insurance Commissioner (regulates commercial insurers that provide stop loss or excess coverages to these programs) to participate in this rulemaking.

In advance of filing proposed rules, DES developed a discussion rule draft as a starting point for discussion. No comments or feedback was received on the discussion draft.

As a result, DES transitioned the discussion draft without changes into the proposed rules. The final rules align with statutory intent and provide a financially safe and transparent operating environment

Enterprise Services filed proposed rules under [WSR 22-16-109](#). Consistent with the comment process laid out under [RCW 34.05.325](#), we sought public comments from August 3, 2022 through September 9, 2022. Enterprise

Services received no written comments during this time. A virtual public hearing was held on September 7, 2022. No oral comments were received at the public hearing.

The adopted rules comply with the legislative intent and authority granted to the office of risk management in state law under [RCW 43.19.766](#) and [RCW 48.62.061](#). A thorough review of the final adopted regulations, consistent with requirements under the [Administrative Procedure Act 34.05.340 \(2\) \(a\) through \(c\)](#), did not reveal any substantial differences from the proposed rules published in the [Washington State Register \(WSR\) under WSR 22-16-109](#).

This concise explanatory statement (CES) fulfills the department's obligations under [RCW 34.05.325](#) which must be met in advance of filing a permanent rule.

The adopted rules reflect DES's effort in seeking participation in the rulemaking process from a large diverse group of stakeholders.

2. Differences between proposed and adopted rule text

There are no changes between the proposed and adopted rule text.

3. Comment summary and our consideration of the comments

Enterprise Services received no comments.