

DEPARTMENT OF ENTERPRISE SERVICES

PUBLIC HEARING FOR ORAL AND WRITTEN COMMENTS

RE: PROPOSED RULE CHANGES TO CHAPTER 200-100
OF THE WASHINGTON ADMINISTRATIVE CODE

COPY

Wednesday, October 2, 2013

12:07 p.m.

Held at:

Central Washington University
Student Union Building, Room 137B
400 East University Way
Ellensburg, WashingtonKaren M. Grant, Certified Court Reporter No. 2155
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DES Rules and Policy Coordinator

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DES Program Administrator - Local
Government Self-Insurance Oversight

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COMMENTING PARTICIPANTS

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P R O C E E D I N G S

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3 HEARING EXAMINER: Good afternoon, ladies
4 and gentlemen. I'm going to call this hearing to order,
5 and it's a public hearing sponsored by the Department of
6 Enterprise Services, DES.

7 My name is Harold Goldes. I represent Chris
8 Liu. Chris Liu is the Director of DES, and I'm to serve
9 as the hearing officer. For the record, this hearing is
10 being held on October 2nd, 2013, in Ellensburg,
11 Washington, beginning at 12:07 p.m. pursuant to the APA.

12 So, if you haven't already done so, we have
13 sign-in sheets. Please fill them out. The sheet is
14 used to call forward individuals for testimony and then
15 is later used to ensure that all the hearing
16 participants are notified of the results of the hearing.

17 For those of you who have written comments, if
18 you want to submit the written comments, we have a
19 separate sheet that indicates the different ways you can
20 submit those comments: by e-mail, by fax, by regular
21 mail, and there's also a Web site that will allow you to
22 submit them that way as well.

23 And so we will accept written comments until
24 October 11th, 2013. Comments can be mailed using the
25 comment sheet that we have there, so that's for anything

1 written that you'd like to provide.

2 By way of formal introduction, the Department
3 staff at this hearing is Devin Proctor. He's the rules
4 and policy coordinator for DES. Shannon Stuber, who you
5 heard from, is the program administrator for Local
6 Government Self-Insurance Oversight.

7 And Karen Grant is the court reporter for the
8 hearing, and she's from Dixie Cattell & Associates. So
9 if you'd like a transcript of the hearing, it should be
10 requested from and are available only from the court
11 reporter.

12 The notice for this hearing today was
13 published in the Washington State Register No. 1317 on
14 September 4th, 2013. It was sent to interested parties.

15 The hearing today is being held to consider
16 oral and written testimony presented on the proposed
17 rules for Chapter 200-100 of the WAC, self-insurance
18 requirements governing local government and non-profit
19 self-insurance. Any comments received today, as well as
20 any written comments received, will be presented to the
21 director, Chris Liu. The tentative adoption date for
22 these rules is December 4th, 2013, and the tentative
23 effective date would be June 4th, 2014.

24 Please refer to the handout provided to you at
25 the door for a copy of the proposed rules. It's that

1 middle stack there. And copies of this handout are
2 located at the sign-in table.

3 The Small Business Economic Impact Statement
4 and Cost-Benefit Analysis. DES did not prepare a
5 preliminary cost-benefit analysis to determine the
6 impact of the cost of this rule versus its benefit. The
7 Department of Enterprise Services is not an agency
8 listed in RCW 34.05.328 5(a)(i).

9 And, further, DES does not voluntarily make
10 Section 201 applicable to this rule adoption, nor, to
11 date, has the Joint Administrative Rules Review
12 Committee made Section 201 applicable to this rule
13 adoption. No Small Business Economic Impact Statement
14 has been prepared under Chapter 19.85 of the RCW, and
15 the implementation of these rules will have no or
16 minimal cost to small businesses.

17 So now, at this time, I'm going to take
18 testimony from those of you who have signed up to
19 testify. When you do, please identify yourself, spell
20 your name, and identify who you represent for the
21 record. To do that, I'm going to rely on these sign-in
22 sheets. Some people have indicated that they might want
23 to, so at the end of all the people -- after all the
24 people who said they do want to give testimony, I'm
25 going to go through the "Maybes," so if you change your

1 mind, you don't miss your chance.

2 Okay. Great. So I'm going to start with --
3 and I apologize in advance for mangling people's names.
4 Is it Peggy Sandberg?

5 MS. SANDBERG: Thank you. It's Peggy,
6 P-e-g-g-y, Sandberg, S-a-n-d-b-e-r-g, and I'm with the
7 Southwest Washington Risk Management Insurance
8 Cooperative.

9 Good morning -- or good afternoon. The
10 Southwest Washington Risk Management Insurance
11 Cooperative was a pool formed in 1985 to self-fund risk
12 management, property-casualty liabilities of its 33
13 school district and associated entity members. We
14 purchase our excess insurance through another
15 self-insured cooperative, the Washington Schools Risk
16 Management Pool. That makes us both a self-insured
17 cooperative and a member of the self-insured
18 cooperative -- of another self-insured cooperative, both
19 which are regulated by the State Risk Manager.

20 In the wake of continued national attention on
21 public entity pool insolvency, of which there were
22 several in the past year, we value the State Risk
23 Manager's continued concern for and focus on financial
24 soundness of the joint property liability programs in
25 Washington. We recognize the efforts to protect the

1 public interest through the use of the two solvency
2 test, using primary assets and total assets.

3 There have been assertions that the more
4 stringent solvency requirements are not needed because
5 of a different business model. That a pool has money to
6 pay today's claims is not the issue. Insurance
7 accounting is different from public entity accounting
8 and must include enough funding for outstanding claim
9 liabilities with payouts, which can be several years
10 down the road, and for claims that have not yet even
11 been presented.

12 Will the pool differ on its promise to pay in
13 the future? That's the heart of the question of
14 solvency. There are, today, serious financial concerns
15 in one of the 15 regulated Washington property-casualty
16 pools, which the State Risk Manager oversees.

17 The Washington State Auditor's Office recently
18 released a financial statement audit report for the
19 Cities Insurance Association of Washington. We see that
20 the pool has a negative fund balance of \$935,000 at the
21 end of the 2012 years, so they're in the hole
22 \$935,000-plus, of their own accounting. It worsened
23 from their \$743,000 deficit at the end of 2011, so it's
24 getting worse. We have a problem here in Washington.

25 The State Risk Manager needs the ability to

1 respond appropriately to protect the public interest and
2 help ensure that minimum financial solvency standards
3 are met. One of these proposed revisions provides a
4 state regulator a variety of options for allowing the
5 pool to correct its own course and teeth for enforcement
6 when it's needed. We don't want public entity pools in
7 Washington to fail.

8 We appreciate the lengthy process taken to
9 ensure that the stakeholders were heard on the relevant
10 issues. Throughout the process, there were two distinct
11 opinions related to the amount of needed assets, and
12 we're glad that the State Risk Manager took the more
13 conservative stand, based on national standards.

14 However, even this conservative stand doesn't
15 guarantee pool solvency. It's one measure. It should
16 be considered a minimum. Would you choose to fly on an
17 airplane that arrives safely at its destination
18 80 percent of the time?

19 We're also encouraged by the shortening of the
20 time for providing the audited financial statements to
21 the State Risk Manager from one year to eight months so
22 she can intervene earlier. We look forward to the State
23 Auditor's Office rising to the challenge of auditing the
24 15 regulated joint property liability programs in a
25 timely manner. We look forward to that.

1 All in all, the Southwest Washington Risk
2 Management Insurance Cooperative supports all the
3 proposed changes to WAC 200-100. Thank you.

4 HEARING EXAMINER: Thank you.

5 And now I would like to call Darren Brugmann.

6 MR. BRUGMANN: We don't have a time limit,
7 do we?

8 HEARING EXAMINER: Well, you know,
9 20 minutes is about the amount of time that --

10 MR. BRUGMANN: I don't --

11 HEARING EXAMINER: It hasn't come up,
12 but --

13 MR. BRUGMANN: -- (inaudible) 20 minutes.

14 My name is Darren Brugmann. D-a-r-r-e-n, last
15 name Brugmann, B-r-u-g-m-a-n-n. I'm here representing
16 the Non-Profit Insurance Program, or NPIP, as we refer
17 to it.

18 Good afternoon. Over ten years ago,
19 confronted with erratic and unpredictable insurance
20 premiums, constantly shifting coverages, and the
21 unavailability of tools to help reduce their exposure to
22 risk in the traditional insurance market, I assembled a
23 small group of leaders from non-profit entities across
24 the state, creating an alliance to take control of our
25 property and casualty insurance needs. This occurred

1 directly after the results of 911 and the shift in
2 insurance markets.

3 We introduced -- at that time, we introduced
4 legislation to allow non-profits in the State of
5 Washington to form an insurance program that provided an
6 alternative to the normal insurance market, just as
7 government entities had been doing for many years in
8 this great state. Our single goal with enabling
9 legislation was to provide non-profits the ability to
10 collectively secure insurance and risk management needs
11 under the Boeing concept. We simply asked to be treated
12 the same as the other programs.

13 With unanimous passage of the legislation,
14 NPIP began serving non-profits in the State of
15 Washington upon inception in August of 2004. Since that
16 time, NPIP has been extremely successful since its
17 inception, which has attracted the attention of other
18 self-insurance programs in our state, as well as a
19 national following.

20 These other programs within our state wanted
21 the state regulator to change existing rules that would
22 make it more expensive for non-profits to buy insurance.
23 And, additionally, these programs wanted the regulator
24 to create rules to apply only to insurance programs with
25 non-profit members; for instance, specifically singling

1 out non-profits to higher exclusionary confidence factor
2 thresholds. These and other changes singled out
3 non-profit programs and are in direct contrary to the
4 intent of the legislation that helps non-profits find
5 affordable insurance.

6 An unwarranted concern is that non-profits are
7 not sophisticated enough, they're not able to sustain a
8 viable and financially healthy program, due to the
9 belief that non-profits do not have sustainable
10 financial security both now and in the future. That is
11 flat wrong. NPIP has grown to become a national model
12 for non-profits across the nation. I guess I said that.

13 We currently have over 560 members in the
14 State of Washington. We have over 100 agency -- or
15 brokers and agents representing and serving those
16 560-plus members, and we're currently approaching
17 \$13 million in premiums and growing. We're growing
18 every day and financially viable every single day. For
19 ten years, we've been able to provide each of our member
20 agencies what has been clearly stated at our initial
21 mission statement: To ensure the availability of stable
22 and affordable insurance protection for the non-profit
23 sector.

24 Fortunately, after a year -- fortunately,
25 after over a year of contentious meetings and

1 discussions, even to a point of name-calling, DES
2 relented on pushing the exclusionary language aimed at
3 the non-profits. However, these current proposed
4 changes to WAC 200-100 governing self-insurance
5 requirements, local government, and non-profit
6 self-insurance are still being pursued. We believe that
7 these rule changes are unnecessary and will further
8 increase the burden of funding insurance for
9 non-profits.

10 The changes proposed: The first change of:
11 All joint self-insurance programs shall obtain an annual
12 actuarial review as of the fiscal year end which
13 provides written estimates of the liability for unpaid
14 claims measured at the expected level and the 70, 80,
15 and 90 percent confidence level.

16 Why we believe this change is unwarranted?
17 The rules currently governing self-insurance pools
18 require that the programs fund to the 70th percentile.
19 We believed that the current requirement is sufficient
20 to maintain financially solvent pools, as we have
21 demonstrated for the past ten years.

22 The 70th percentile requirement was created
23 barely two years ago, and there has been sufficient
24 time -- there has not been sufficient time to determine
25 that a more stringent requirement is necessary. As I

1 mentioned, NPIP has easily met the 70th percentile
2 requirement.

3 The second rule change: Standards for
4 solvency - Actuarially determined liabilities, program
5 funding and liquidity requirements. Joint
6 self-insurance programs operating under an approved plan
7 and making satisfactory progress, according to the terms
8 of the plan, shall remain under the supervisory watch by
9 the risk manager until the terms of the approved plan
10 have been met.

11 Programs under supervisory watch but not
12 making satisfactory progress may be subject to the
13 following requirements: A) an increase in frequency of
14 examinations, the cost of which shall be the
15 responsibility of the program; B) submission of
16 quarterly reports; C) onsite monitoring by the State
17 Risk Manager; and D) service of the cease and desist
18 order upon the program.

19 Why we believe this change is unwarranted:
20 This requirement is too vague as to the definition of
21 satisfactory progress. We believe that this rule allows
22 too much discretion to the State Risk Manager, including
23 the use of a cease and desist order. We believe that
24 this verbiage will allow unilateral power to the
25 regulator, without providing recourse, mediation, or

1 resolution by some third party.

2 The third change rule -- proposed change is
3 the submission of audited financial statements to the
4 State Risk Manager within eight months of the program's
5 fiscal year end which meet the requirements of the State
6 Auditor and State Risk Manager as described in the
7 chapter.

8 Why we believe that change is unwarranted:
9 Many pools have experienced difficulties with required
10 audits being completed within the current one-year
11 requirement. We are concerned that this change will
12 mean that the insurance pools will be considered out of
13 compliance with that state regulator, that the Auditor's
14 Office is unable to complete the required audit within
15 the regulatory time line.

16 Additionally, we are concerned that this
17 required change in audited financial statements will
18 remain irrelevant, as long as some insurance pools have
19 a three-year notice requirement. As we have suggested
20 at meetings is that the regulator's goal -- as we have
21 suggested, if the regulator's goal is transparency for
22 members, then reduce the notice requirement to only one
23 year, as has been suggested in the WRAC process but to
24 this day has not been addressed.

25 Regarding the WRAC or the DES process: The

1 WRAC committee was established with the suggestion by
2 the former director of the Office of Financial
3 Management, OFM. This committee was assembled after
4 concerns brought forward by NPIP and other programs
5 regarding regulatory oversight, specifically legislation
6 that was introduced. It was also assembled at the
7 predecessor committee. The Property Advisory Board
8 ceased operations due, in part, to our former governor
9 terminating numerous committees and boards at the very
10 beginning of the recession.

11 Unlike the Property Advisory Board process,
12 the WRAC process never established meeting procedures or
13 process. The CER-102 states that the Department of
14 Enterprise Services took input from a wide-ranging group
15 of stakeholders, and that the changes to chapters here
16 in WAC that we're discussing came from that exchange.

17 The previous statement is not correct. Yes,
18 meetings were held by a committee that was called the
19 Washington Risk Pool Advisory Committee, but again the
20 process for how rule-making would be considered by DES
21 was never defined. At no time was a problem statement
22 identified by the representatives from DES or members of
23 the committee. And, additionally, no minutes were taken
24 for the -- minutes for the meetings, and members of the
25 committee were left to wonder what decisions had been

1 made, if at all.

2 Finally, it appears that DES only considered
3 proposed rule-making changes that were submitted by a
4 single member of the committee and disregarded all other
5 proposals submitted by other members of the committee.
6 I refer to my three-year notice requirement that I just
7 mentioned about. The rules submitted by DES for
8 consideration were generated by a single request from a
9 member pool representative of the committee, not by
10 members of the committee as a whole.

11 At best, the requested rule changes should
12 have been more fully vetted at the committee level to
13 determine whether individual members of the committee
14 can support or not support the changes. The requested
15 rules submitted by DES are not supported by all members
16 of the committee. Frankly, it is undetermined if a
17 simple majority of the program support the changes.

18 The rule changes submitted by one
19 representative of the WRAC committee were driven by the
20 need of that pool member to create a legislative
21 competitive disadvantage for other member pools that did
22 not follow specific structure or insurance Boeing model.

23 The role of DES should be to help guide
24 rule-making that provides a sufficient oversight,
25 appropriate competition, and allows maximum flexibility

1 through member-voted representation. It should not be
2 the role of DES to decide through rule-making which
3 Boeing model that will support. Most importantly, it
4 should not be the role of DES to rewrite legislation
5 through regulation.

6 Many non-profit entities provide much needed
7 services within their communities, services that would
8 not be available if operating margins are increased by
9 arbitrary rules/regulation changes. These rule changes
10 are contrary to the intent of the legislation that was
11 passed ten years ago that created the ability for
12 governments and non-profits to self-insure.

13 Let me repeat that. That's the important
14 aspect here: These rule changes are contrary to the
15 intent of the legislation passed ten years ago that
16 created the ability for governments and non-profits to
17 self-insure. That legislation allowed for a prudent,
18 financially responsible process to provide less
19 expensive options to entities that serve the public. By
20 singling out one type of pool model, these proposed rule
21 changes will not enhance fiduciary responsibility. They
22 will, however, make it more difficult for non-profits to
23 serve their communities.

24 We respectfully request the rules remain as
25 written and that DES look into the reason why DES staff

1 thought it was necessary to bring these rule changes
2 forward.

3 Sincerely, myself. And I will submit this in
4 writing to -- now that I know the direction to do it.
5 Thank you.

6 HEARING EXAMINER: Thank you.

7 Next is Brian Turnbull.

8 MR. TURNBULL: Thank you for this
9 opportunity to talk. I am Brian Turnbull. B-r-i-a-n,
10 T-u-r-n-b-u-l-l. I'm the senior underwriting officer
11 for Canfield, and we represent the Non-Profit Insurance
12 Program, the SIAW, the Schools Insurance Association of
13 Washington, the United Schools Insurance Program, the
14 Cities Insurance Association of Washington, and the
15 WRCIP, which is Washington Rural Counties Insurance
16 Program. Easy for me to say. A lot of acronyms there.
17 And specifically in my role, I oversee the underwriting
18 for all those pools that Canfield represents.

19 I oppose these changes for the same reasons
20 that Darren very eloquently pointed out. Basically,
21 although they're innocuous and won't significantly
22 affect the way our pools are run, we do believe they're
23 unnecessary and ultimately will unnecessarily cost
24 members a little bit more, without really providing a
25 significantly safer operating model. And I think Darren

1 touched on all that.

2 And I, like Darren and other people that have
3 spoken in opposition to this, believe that there hasn't
4 been a substantial reason demonstrated to make the
5 change at this point, two years after the original
6 change was made.

7 I do believe that these changes have been
8 brought forth specifically by a member of the WRAC
9 committee, which I've served on a member -- as a member
10 on for the last -- well, since its inception. These
11 changes are brought forth by a member and supported by
12 members that specifically are in competition with the
13 pools that I represent and work for, respectfully called
14 the Canfield pools or the Ephrata pools in the WRAC
15 committee meeting.

16 So, as I was saying, the changes were brought
17 forth and supported by competing pools to our pools,
18 with the belief that it will create a competitive
19 advantage for their pools. As evidenced by the number
20 of calls from members of the pools we represent and
21 agents of the pools we represent well prior to the
22 introduction of these rules, as these rules are still in
23 the formative process, our members are hearing that
24 these changes will go into effect and significantly
25 deter our pool's ability to provide insurance to the

1 membership, and this was happening very early on in the
2 process, and still even getting calls as recently as
3 last week from, specifically, administrators of
4 competing pools saying, "Do you realize that when this
5 rule goes into effect, XYZ pool will be inoperable and
6 not a good place for your member to be?"

7 The unfortunate thing about that is, like
8 Darren, I believe that the process that is followed
9 should be in the best interest of all the members, all
10 the members of pools in the state, not just one set of
11 pools or the other.

12 So, in conclusion, I would just like to
13 restate that I oppose the rule changes because I believe
14 they are unnecessary, and I do believe they are
15 motivated by one specific member of the WRAC, in
16 particular, and supported by other competing members of
17 the Canfield pools, so to speak, to gain a competitive
18 advantage, but it's wrapped up in the veil of providing
19 a safer environment for everybody in the state, when, in
20 reality, I believe that the motivation was to create a
21 better pooling -- a competitive advantage for a certain
22 set of pools.

23 Thank you.

24 HEARING EXAMINER: Thank you.

25 Next we'll hear from Rich Moore.

1 MR. MOORE: Good afternoon. For the
2 record, I am Rich Moore. That's r-i-c-h, M-o-o-r-e.
3 Nice and short for you.

4 I am the financial officer of Canfield, which
5 is a third-party administrator for the following
6 insurance programs: The School Insurance Association of
7 Washington, which is approximately 40 members; the
8 United Schools Insurance Program, which is approximately
9 150 members; the Washington Rural Counties Insurance
10 Pool, which has 8 members; the Cities Insurance
11 Association of Washington, which has 230 members; and
12 the Non-Profit Insurance Program, which you've already
13 heard from their chair has 560 members, approximately.

14 I have spoken to you and provided testimony
15 about the specifics of the proposed rule changes. After
16 thinking about it, I decided I'd like to take a little
17 bit different tact with you at this point and not talk
18 specifically but more of my experience.

19 Prior to working at Canfield, which I began a
20 little over two years ago, I worked as a -- within the
21 school industry. I was formerly an assistant
22 superintendent at the Renton School District, and I
23 served in that capacity for about 11 years.

24 As the assistant superintendent of that school
25 district, which was comprised of approximately 15,000

1 students, I had to make a decision as to the type of
2 insurance that I would be able to purchase for that
3 entity as a municipal corporation, so I began a process
4 of requesting proposals from different insurance
5 providers.

6 And after looking at the proposals, it came
7 down to two types of models. You heard someone speak
8 who represented a portion of one insurance model, and
9 then you've also heard about Canfield, which was two
10 separate models.

11 In brief, one model was a high self-insured
12 retention, with low reliance on the insurance market.
13 The other model was a lower self-insured retention and
14 high reliance on the market. So I had those two models.
15 I had both programs come and explain to me the pros and
16 cons, and then, as an individual, I had to make a
17 decision.

18 The reason I'm bringing it up is, you heard
19 that there's an industry standard of the 80th percentile
20 and how important that is. Let me tell you what my
21 perspective was. As someone who was looking for
22 insurance, what I was told was: This particular
23 insurance model, which is not the Canfield model, which
24 was a different insurance model, that they said, "Hey,
25 we have \$40 million in the bank. That's why you should

1 join our pool, along with the protection that it
2 provides."

3 As an insurance purchaser and the
4 administrator of a school district, that somewhat
5 offended me, based on the fact that why did you have
6 \$40 million in the bank? Was it for the benefit of the
7 program, or was that money that was maybe overpaid by
8 other school districts that may not be used anytime
9 soon, that could have been used to acquire teaching
10 staff, provide services to students to lower the cost of
11 insurance. I was offended at that time, and I decided
12 that I wanted to do a different model which would
13 require maybe lower costs up front.

14 Now, what was important to me was -- I
15 understood fully the two separate models. It was clear
16 to me, and I chose -- because, at that time, I had
17 reliance that we were going to be able to get insurance
18 in the market. And, as time has proven, that continues
19 to be the case. You can acquire insurance in the
20 market, and I did not have to have as much dollars in
21 the game, so to speak.

22 Now, the protection was provided through a
23 stop-loss policy. So, as you've heard: Hey, there
24 could be future claims that may happen, and as an
25 individual entity, you need to be protected against

1 that.

2 I chose to join a program that had a stop-loss
3 policy which did provide protection on the back end. In
4 my line of thinking, that stop-loss policy was going to
5 provide me protection over multiple years. If I bought
6 into the \$40 million policy plan, I had \$40 million,
7 whereas if I bought into the stop-loss policy, I would
8 potentially have that over multiple years. So I felt,
9 as an individual, that was better for me, and it was
10 fully explained to me.

11 So I somewhat disagree. In my mind, it has
12 come down to two different models, and I believe each of
13 us have a competitive opportunity to choose the model
14 which best fits our needs. Those that were in the other
15 program as a member of -- when I was in the Renton
16 School District, I thought: Good for you. You have
17 insurance for your students. That's the important
18 point, not which model you choose, but that you had a
19 choice.

20 The other thing I would say is, as a Renton
21 School District official, I had many opportunities to
22 hold community -- oh. I guess I -- I had the
23 opportunity to make decisions within my realm. I was in
24 charge of transportation, I was in charge of food
25 service, I was in charge of capital projects. I had the

1 ability to make decisions on my own that would affect
2 the community as a whole. I was very, very diligent
3 about trying to find consensus building models within
4 the community that brought multiple groups together to
5 form an opinion that we could all live with. I tried to
6 find the middle ground.

7 What I believe is that the difficulty with the
8 WRAC committee right now is that there are two
9 dissenting opinions. There's a large number of pools
10 that like one model, there's another number of pools
11 that like a different model. What I believe is
12 important right now is, unfortunately, the DES staff are
13 leaning towards one particular model. We're not finding
14 the middle ground, we're not trying to find commonality,
15 and I believe that is what is difficult here.

16 After having served on this committee for two
17 years, I think, as you heard from Darren, the chairman
18 of NPIP, recommendations that we have made as a voice
19 have not been listened to and, I believe, have not been
20 implemented. I believe, going forward, if I really want
21 to have any voice, I need to find that other pool that
22 submitted these changes and get them to submit them on
23 my behalf. Otherwise, I'm not going to be heard, and to
24 me that's very discouraging. I don't believe that's
25 what our process is about. We need to find common

1 ground. We need to find some things that will affect
2 positively the pools, as a whole.

3 So, for me, I've been kind of discouraged by
4 this process, and I really -- I hope that in the future
5 we can at least decide as a WRAC committee -- once we
6 make the decision as a committee, if that's -- whatever
7 that consensus model looks like. It may be modified
8 consensus, it may not be full consensus, but we should
9 agree how we're going to make decisions. And if there's
10 a majority opinion, at least let there be a minority
11 opinion. Let there be a voice.

12 And then, ultimately, I would also ask that
13 there at least would be -- if a decision is going to be
14 made, let's at least publish that decision, not wait
15 until the rules come out and say, "Here's what we've
16 decided to do." Let's be inclusive. That's what I
17 believe government should be. It should be -- represent
18 all of us, not just a single few.

19 The last thing I will say is, there were some
20 comments made about the viability of a pool. I will
21 say, as an accountant, I do take exception to the term
22 "solvency." To me, solvency, in accounting terms, means
23 you have money to pay the bills. There's never been a
24 question about whether that pool has had the ability to
25 pay the bills. The bills have been paid.

1 The issue has been -- on solvency is whether
2 you have collected enough money for what might happen,
3 the 70th, 80th, 90th, 100 percentile. The reality is,
4 how much money does one need to pay for what might
5 happen? I think we do have a reasonable number. I
6 think the 70th percentile is a reasonable number.

7 What that means is - and I don't think this is
8 adequately explained - is that out of 100 years, that
9 will be sufficient money out of 70 of those 100 years.
10 It's not 70 percent of the claims, it's 70 years out of
11 100 that would be sufficient. I just think that's a
12 reasonable number. I think that's a good target.

13 Let's leave the money in the members' hands,
14 where it can do the most good, whether it's a
15 non-profit, a city, a county, a school district.
16 There's so much pressure on our municipal corporations
17 right now to provide services to the community. Let's
18 not leave the money in some insurance program, where
19 it's doing nothing more than sitting there, collecting
20 interest so that we can have a nice big number to say
21 how much money is in the bank. Let's get it back into
22 the communities, where it makes a different.

23 I just wanted to say that, and thank you for
24 the time.

25 HEARING EXAMINER: Thank you.

1 Mr. Oliver Sloboda?

2 MR. SOBODA: Hi. My name is Oliver
3 Sloboda. Oliver, O-l-i-v-e-r, Sloboda, S-l-o-b-o-d-a.
4 And I'm with Senior Services of Snohomish County.

5 We at Senior Services are opposed to the
6 proposed new rules, as we do not believe the proposed
7 new rules are warranted, and will have a negative effect
8 on the Non-Profit Insurance Program, NPIP, we have
9 enjoyed for the past six years.

10 Senior Services of Snohomish County is the
11 largest and most comprehensive non-profit service
12 provider for older adults, people with disabilities, and
13 their families in Snohomish County. Our guiding
14 principles of independence, dignity, and quality of life
15 are realized in five interconnected service areas:
16 nutrition, housing, transportation, social service, and
17 now access to health care. With 180 staff, 200
18 volunteers, and an annual budget of \$11.5 million, we
19 serve 38,000 people each year in Snohomish County.

20 If the proposed rules were to be implemented,
21 our agency is concerned that the cost of our property
22 and casualty insurance needs will increase dramatically.
23 For the past six years, we have been a member of NPIP,
24 which provides us with stable and affordable insurance
25 coverage. This is a stark contrast from the previous

1 years, when we changed insurance annually.

2 Finally, every additional dollar we need to
3 spend on insurance needs is a dollar less spent on
4 providing nutritional services, which includes Meals on
5 Wheels, senior dining, affordable senior housing, minor
6 home repair, senior transportation, social services,
7 which include fall prevention, depression screening and
8 counseling, a senior resource list, family caregiver
9 support, multicultural services, older adult mental
10 health assessment, senior peer counseling, and, most
11 recently, victims of crime and elder abuse assistance.

12 Again, we at Senior Services are opposed to
13 the proposed new rules, as we do not believe the
14 proposed new rules are warranted, and will have a
15 negative affect on the Non-Profit Insurance Program we
16 have enjoyed for the past six years. Thank you.

17 HEARING EXAMINER: Thank you.

18 Next up is Kathy Bangsund.

19 MS. BANGSUND: Hello. My name is Kathy
20 Bangsund, K-a-t-h-y, B-a-n-g-s-u-n-d. I've been the
21 executive director of a small non-profit corporation in
22 Leavenworth providing vital services to a group of
23 disabled adults for the last 11 years. We have been
24 mandated by the State of Washington to retain
25 significant amounts of liability insurance coverage.

1 While we have consistently complied with this
2 state mandate, only since learning about and purchasing
3 a policy from NPIP has this coverage actually been
4 affordable. Interestingly, in all our years as a
5 licensed adult family home, there has never been a
6 liability claim against The Dwelling Place.

7 My concern today and reasons for speaking is
8 the proposed change to WAC 200-100. Our leadership
9 believes that these rule changes are unnecessary and
10 will further increase the burden of funding insurance
11 for our non-profit. Certainly any rule change should
12 reflect the work of an entire committee, and, most
13 certainly, outcomes should be foremost in the
14 consideration process. The impact to non-profits such
15 as The Dwelling Place should be of concern to all those
16 proposing the rule changing.

17 Although The Dwelling Place's track record in
18 providing quality services to disabled adults in our
19 community is exemplary, we experience considerable
20 weariness in attempting to endure amidst increasing
21 costs simultaneous with shrinking funding. The entire
22 governing board of our organization believes that the
23 above legislation will yet again impact in a negative
24 way our ability to continue to provide services to a
25 group of people who are depending on us.

1 Thank you.

2 HEARING EXAMINER: Thank you.

3 And finally, for now, the people who said that
4 they would be giving oral comments is Scott Hutsell.

5 MR. HUTSELL: Good afternoon. For the
6 record, my name is Scott Hutsell, S-c-o-t-t,
7 H-u-t-s-e-l-l.

8 I am currently a Lincoln County Commissioner,
9 chairman of the board of the Lincoln County
10 Commissioners, and also a board member of the Washington
11 Rural Counties Insurance Pool, serve as a vice chairman
12 of that board, and also serve on the fiscal committee
13 for that board.

14 When you end up going last, most probably
15 everything has already been said, but there are a few
16 things. The WRCIP has opposition to these new rules
17 being invoked. We respectfully request that the rules
18 remain as written. The WRCIP, the eight counties are
19 Wahkiakum, Klickitat, Gray County, Lincoln County, Ferry
20 County, Stevens County, Whitman County, and Asotin
21 County. They're all represented in that pool.

22 Pool models are different, and one size does
23 not fit all. We believe the model that the WRCIP
24 operates under makes the best use of taxpayer dollars,
25 putting the risk back to the insurance companies through

1 stop-loss and aggregate stop-loss protection rather than
2 tie up millions of dollars in reserve of public monies
3 that we think are better used at our level.

4 4862 gives flexibility to pools to operate in
5 a manner that fits their business model. More and more
6 defined rules give them less flexibility. I know there
7 needs to be some oversight, but these rules take more of
8 the local oversight by electing officials away.

9 And just as a little anecdotal piece, I was --
10 I sat on a board of a couple of years ago of the
11 Washington Counties Insurance Pool, which was a pool
12 that is now not in business anymore because of one that
13 did go haywire. And I feel, if that pool had been --
14 that was an insurance -- a health insurance pool. If
15 that pool had been run under the model that we run the
16 WRCIP under, I think possibly some of those problems
17 that ended up being the demise of that pool would not
18 have happened.

19 So that's all I have for now, and thank you
20 very much.

21 HEARING EXAMINER: Thank you.

22 I just want to return to the people who
23 initially said that they might want to offer comments
24 verbally, and that would include Jim Richards. Would
25 you like to speak?

1 MR. RICHARDS: Yes, I would. Thank you.

2 HEARING EXAMINER: Okay.

3 MR. RICHARDS: Thanks very much again for
4 letting me speak. It's Jim Richards, J-i-m,
5 R-i-c-h-a-r-d-s. I represent, as a lobbyist, the
6 Non-Profit Insurance Program, and I think what I wanted
7 to do is come at my remarks from Monday just a little
8 bit differently.

9 I've been in your shoes before, actually.
10 I've served as a staff member to a governor, I have
11 served as senior staff to a house caucus, I have served
12 as an assistant director in a state agency where I've
13 had to oversee WAC hearings in the past, so I think I
14 know a little bit about the process here and what's
15 going on.

16 And I want to go back to what I said on
17 Monday. These changes, in part, were part of some
18 legislation that was drafted by the Office of Financial
19 Management, not all of them, some of them. Two years
20 ago, OFM tried to pass this legislation. They did it
21 essentially by handing it off to one of the pools that
22 had -- you've heard of that actually is in competition
23 with some of the Canfield pools and NPIP. And, as you
24 might recall, their lobbyist then took, as I mentioned
25 on Monday, then took the bill and ran it as their bill

1 rather than OFM's bill. When this bill died -- and it
2 died because there was no consensus, really, on whether
3 or not the changes were needed. It also died because of
4 legislative intent, and I think that's really very
5 important to consider.

6 What was the legislature's intent when they
7 put this program in place that allowed non-profits to
8 pool? It's basically so that they can provide the types
9 of services that you've heard here today without
10 overburdening them, still within fiduciary
11 responsibility, but without over-taxing the dollars that
12 they have so that they can actually provide the
13 services.

14 What happens if they can't provide the
15 services? Well, either they don't get provided or the
16 Government pays for it. These non-profits -- and that's
17 what the legislative intent was. It was to make it
18 easier for non-profits to provide much needed community
19 services so that the Government didn't have to. That
20 was the intent of the legislature.

21 Now, legislation died. The WRAC was
22 developed, although it was developed in a way that was
23 not exactly clear to Marty Brown, who was the head of
24 the Department of Financial Management. I know Marty
25 very well, and we've had many discussions about this.

1 There are no really clear guidelines about what the WRAC
2 does, except the only thing that I know is that Marty
3 said it should be a consensus group.

4 Policy should be developed in consensus or as
5 near consensus as possible, and I would say one entity
6 of the 15 coming forward with a policy -- rule change
7 and having those rules pushed forward, while another
8 entity comes forward with proposed rule changes and not
9 having those go forward, I don't think I'd call that
10 consensus.

11 HEARING EXAMINER: Just for clarification,
12 an underlying theme has emerged here about this other
13 entity. And obviously, since no one has mentioned the
14 name, I would suggest people may feel more comfortable
15 leaving this other entity unnamed, but if you wanted to
16 name the entity or identify the entity in some other
17 way, you could.

18 MR. RICHARDS: Okay. I don't think I'll
19 choose to.

20 HEARING EXAMINER: Okay.

21 MR. RICHARDS: I'll leave it at that.

22 So, again, to the legislative intent, we
23 talked about that.

24 Now I think we need to look at the rule change
25 here. Does it impact legislative intent? And I think

1 the answer is yes. It makes it more expensive for these
2 non-profits, potentially, to provide their services.
3 That's counter to the legislative intent.

4 So I guess what I would say is, the
5 legislation that was put forward that was attempted to
6 make some of these changes did not pass, because the
7 legislature did not believe in it. Now it appears that
8 the agency, since they couldn't make this happen in the
9 legislature, is trying to do this through the WAC
10 process. I've seen this before. Like I said, I've been
11 around Olympia for 25 years. I've seen this before.

12 If the agency wants to make these changes, if
13 they are that valid and if they have such a direct
14 impact on legislative intent, let the agency come
15 forward with legislation to change the legislative
16 intent that was set up ten years ago. And I think, for
17 the legislators who actually put -- who pushed this
18 legislation, who sponsored it, who got it through
19 committee, got it to the governor's desk, I think they
20 would tell you the exact same thing.

21 So thank you very much for your time.

22 HEARING EXAMINER: Thank you.

23 And then Jill Marcell?

24 MS. MARCELL: I'll pass. Thank you.

25 HEARING EXAMINER: Okay. I have one more,

1 someone who initially said they would prefer not to give
2 oral comments. If you would like to change your mind,
3 Sara McDonald, now is a good time.

4 MS. McDONALD: No, thank you.

5 HEARING EXAMINER: Okay. I am going to
6 close the hearing at 12:56 p.m. Thank you for your
7 time.

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9 HEARING CONCLUDED: 12:56 p.m.

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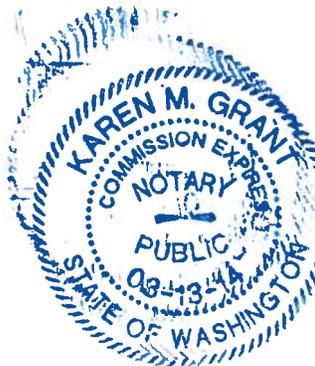
C E R T I F I C A T E

STATE OF WASHINGTON)
)
COUNTY OF PIERCE)

I, the undersigned officer of the Court, under my commission as a Notary Public in and for the State of Washington, hereby certify that the foregoing hearing regarding DES proposed rule changes to Chapter 200-100 of the WAC, taken October 2, 2013, was taken stenographically before me and thereafter transcribed under my direction;

That I am neither attorney for, nor a relative or employee of any of the parties; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 11th day of October, 2013.



Karen M Grant
KAREN M. GRANT
NOTARY PUBLIC in and for the
State of Washington, residing
at Edgewood.
My commission expires 3/13/14.