

HOUSE BILL REPORT

SB 5345

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to self-insured employers.

Brief Description: Allowing self-insured employers to close disability claims after July 1990.

Sponsor(s): Senators Matson, Owen, Anderson, Gaspard, McCaslin, Stratton, Newhouse, Moore, Oke and Murray.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 27, 1992, DPA.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *Do pass as amended.* Signed by 10 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Assistant Ranking Minority Member; Franklin; Jones; R. King; O'Brien; Prentice; Vance; and Wilson.

Minority Report: *Do not pass.* Signed by 1 member: Representative Fuhrman, Ranking Minority Member.

Staff: Chris Cordes (786-7117).

Background: Until 1986, the only industrial insurance claims that self-insured employers were authorized to close were claims in which the worker received only medical treatment. Claims that included any other kind of compensation were closed by the Department of Labor and Industries.

Between 1986 and 1990, self-insured employers were permitted to close industrial insurance claims if either medical treatment payments or time-loss payments were made on the claim. The self-insurer could not close the claim if it involved permanent disabilities, if it raised disputes that required intervention by the department, or if the injured worker had not returned to work with the employer. The authority to close these claims expired July 1, 1990.

Summary of Amended Bill: Self-insured employers are authorized to close industrial insurance claims when the

injured worker has received time-loss compensation and/or medical benefits, if the worker has no permanent disabilities, if no dispute was raised on the claim, and if the injured worker has returned to work to the original job at the time of injury with the employer.

The closure notice that the self-insurer sends to the worker must give the worker 180 days, instead of 60 days, to protest the notice to the Department of Labor and Industries. The department's authority to review and order benefit changes when claims are incorrectly closed by self-insurers includes a review of factual errors. After a review, the department must require a self-insurer to correct benefits paid incorrectly.

Self-insurers are required to transmit notice of any protest or appeal to the Department of Labor and Industries within seven days of receiving the protest. For jurisdictional purposes, the date the protest is mailed to or served on the self-insurer is the date of filing the protest with the department.

In a dispute, the self-insurer must provide a copy of the worker's file at no charge within 15 days of the request. Failure to comply with the requirement to provide a copy of the file subjects the employer to a penalty of not more than \$500.

Amended Bill Compared to Original Bill: The amended bill adds the following provisions: (1) self-insurers are required to transmit notice to the Department of Labor and Industries of any protest or appeal within seven days of receiving the protest. For jurisdictional purposes, the date the protest is mailed to or served on the self-insurer is the date of filing the protest with the department. In a dispute, the self-insurer must provide a copy of the worker's file at no charge within 15 days of the request. Failure to comply with the requirement to provide a copy of the file subjects the employer to a penalty of not more than \$500; (2) to qualify as a claim that may be closed by the self-insurer, when the injured worker returns to work with the employer of record, it must be to the worker's original job at the time of injury; (3) the closure notice that the self-insurer sends to the worker must give the worker 180 days, instead of 60 days, to protest the notice to the department; (4) the department's authority to review and order benefits changes in claims closed by a self-insurer includes a review of factual errors; (5) the department's authority to require a self-insurer to correct benefits paid incorrectly is made mandatory, rather than discretionary; and (6) the second sunset clause in the bill is deleted.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Department of Labor and Industries' study showed that 93 percent of self-insured closures were done properly. With this good record, there is no reason why the department should be burdened with closing these cases. The employers are willing to take on the work and can do it more quickly, which benefits the employees. The department can then use its resources on more difficult cases.

Testimony Against: In the 7 percent of cases that were not properly closed, the cost to the worker is high. Even in "properly" closed cases, there is a possibility that the worker will not have the information needed to evaluate whether a permanent disability has occurred. The worker should be given more notice than the standard appeal rights notice. In addition, there is a concern that a case with "no dispute" means that the worker is not getting information or advice until too late to pursue his or her rights.

Witnesses: (In favor) Melanie Stewart, Washington Self-Insurers Association; Larry Writer; Clif Finch, Association of Washington Business; and June Bandy, Seattle School District. (Opposed) Bill Hochberg and Dennis Martin, Washington State Trial Lawyers Association. (No position) Jody Moran, Department of Labor and Industries.