

HOUSE BILL REPORT

ESB 6322

*As Reported By House Committee on:
Financial Institutions & Insurance*

Title: An act relating to Longshore and Harbor Workers' Compensation Act insurance.

Brief Description: Providing longshoreman's insurance.

Sponsor(s): Senators Vognild, Owen and Moore.

Brief History:

Reported by House Committee on:
Financial Institutions & Insurance, February 28, 1992,
DPA.

**HOUSE COMMITTEE ON
FINANCIAL INSTITUTIONS & INSURANCE**

Majority Report: *Do pass as amended.* Signed by 12 members: Representatives Dellwo, Chair; Zellinsky, Vice Chair; Broback, Ranking Minority Member; Mielke, Assistant Ranking Minority Member; Anderson; Inslee; R. Johnson; R. Meyers; Paris; Schmidt; Scott; and Winsley.

Staff: John Conniff (786-7119).

Background: While workers' compensation insurance is the exclusive province of the state fund administered by the Department of Labor and Industries, the state does not provide coverage under the federal Longshoremen's and Harbor Workers' Compensation Act, nor maritime employers' liability coverage under the Jones Act. Coverage for employers subject to those laws purchase workers' compensation coverage from the private market. Those employers who cannot obtain insurance from private carriers have purchased coverage from an assigned risk pool based in Portland, Oregon. In October of 1991, the underwriter of that pool, the National Council on Compensation Insurance, indicated that it will no longer approve the activities of that pool in Washington. They have set June 30, 1992 as the end of coverage for Washington employers from that pool. Employers who have obtained insurance from that source in the past may have trouble getting coverage from the few private carriers who write that insurance in Washington.

Summary of Amended Bill: The insurance commissioner is given the authority to develop a plan to insure employers' obligations under the Longshoremen and Harbor Workers' Act and maritime employers' liability coverage when those employers are unable to obtain coverage in the private market. The plan requires the participation of all insurers who are authorized to write primary and excess workers' compensation insurance or reinsurance, specifically including the Washington state fund. Participation must be in amounts proportional to the premiums written by each of these entities. The state Department of Labor and Industries must obtain or provide excess of loss coverage for the plan by July 1, 1992. If the coverage is too expensive or if the department is unable to obtain or provide the coverage, the department must participate in the plan and must share 46 percent of plan profits and losses.

The commissioner is required to appoint an advisory committee by April 15, 1992, consisting of the commissioner, the director of the Department of Labor and Industries, and representatives of insurers writing primary or excess workers' compensation insurance, organized labor, and maritime employers. The advisory committee is given the added task of proposing long-term solutions to the longshoremen and harbor workers' insurance availability-affordability problem.

The insurance plan to be established by the insurance commissioner terminates on July 1, 1993.

Amended Bill Compared to Engrossed Bill: The Department of Labor and Industries must participate in the longshore and harbor workers insurance plan only if the department cannot obtain or provide affordable excess of loss coverage to the plan by July 1, 1992.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: Small maritime businesses will soon be without required longshore and harbor workers coverage because the existing private market source of coverage will be canceled in July of this year. Without some residual market plan to provide this coverage, these businesses will fail, costing jobs and revenue within the state. The Department of Labor and Industries must be included in any plan because the state has a virtual monopoly on workers compensation coverage leaving a very small private insurance market to absorb any potential catastrophic losses.

Testimony Against: The Department of Labor and Industries cannot constitutionally pay for private insurance losses with funds collected from employers for state workers' compensation coverage. In addition, longshore and harbor workers coverage is provided pursuant to a federal law that mandates benefits and imposes liabilities that are both different and greater than those offered through the department. Longshore and harbor workers coverage should be provided by the private insurance sector.

Witnesses: (Pro): Gordon Baxter, Puget Sound Metal Trades Council; Gwen Fraser, Maritime Alliance; Tim Beaver, Global Diving; Virginia Clark, Clark Maritime; Basil Badley, American Insurance Association; Bill Garvin, Jones Washington Stevedoring; Lincoln Ferris, Eagle Pacific; and Stephen E. Wehrly, Western Association of Insurance Brokers. (Neutral): Allen Morrow, Office of Insurance Commissioner. (Con): Clayton Jones, Redshield Insurance; and Doug Connell, Washington State Labor & Industries.