

2 EHB 1242 - CONF REPT
3 By Conference Committee

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 51.52.050 and 1987 c 151 s 1 are each amended to read
8 as follows:

9 (1) Whenever the department has made any order, decision, or award,
10 it shall promptly serve the worker, beneficiary, employer, or other
11 person affected thereby, with a copy thereof by mail, which shall be
12 addressed to such person at his or her last known address as shown by
13 the records of the department. The copy, in case the same is a final
14 order, decision, or award, shall bear on the same side of the same page
15 on which is found the amount of the award, a statement, set in black
16 faced type of at least ten point body or size, that such final order,
17 decision, or award shall become final within sixty days from the date
18 the order is communicated to the parties unless a written request for
19 reconsideration is filed with the department of labor and industries,
20 Olympia, or an appeal is filed with the board of industrial insurance
21 appeals, Olympia(~~(:—PROVIDED, That)~~). However, a department order or
22 decision making demand, whether with or without penalty, for repayment
23 of sums paid to a provider of medical, dental, vocational, or other
24 health services rendered to an industrially injured worker, shall state
25 that such order or decision shall become final within twenty days from
26 the date the order or decision is communicated to the parties unless a
27 written request for reconsideration is filed with the department of
28 labor and industries, Olympia, or an appeal is filed with the board of
29 industrial insurance appeals, Olympia.

30 (2) Whenever the department has taken any action or made any
31 decision relating to any phase of the administration of this title, the
32 worker, beneficiary, employer, or other person aggrieved thereby may
33 request reconsideration of the department, or may appeal to the board.
34 If an employer requests reconsideration of a department order in favor
35 of an injured worker, the employer must submit all information relevant
36 to the request within one hundred twenty days of requesting

1 reconsideration and the department may consider only the information
2 that is timely submitted. For good cause shown, the department may
3 extend the time period for an additional thirty days. If the injured
4 worker submits new information after the employer time limits
5 established in this subsection the department shall allow a reasonable
6 period of time for the employer to submit rebuttal information.
7 Temporary total disability compensation or medical aid benefits granted
8 to a worker by an order under reconsideration shall continue while the
9 reconsideration is pending.

10 (3) In an appeal before the board, the appellant shall have the
11 burden of proceeding with the evidence to establish a prima facie case
12 for the relief sought in such appeal(~~(: PROVIDED, That)~~). However, in
13 an appeal from an order of the department that alleges fraud, the
14 department or self-insured employer shall initially introduce all
15 evidence in its case in chief. (~~Any such~~) A person aggrieved by the
16 decision and order of the board may thereafter appeal to the superior
17 court, as prescribed in this chapter.

18 **Sec. 2.** RCW 51.52.060 and 1986 c 200 s 11 are each amended to read
19 as follows:

20 (~~Any~~) (1)(a) A worker, beneficiary, employer, or other person
21 aggrieved by an order, decision, or award of the department must,
22 before he or she appeals to the courts, file with the board and the
23 director, by mail or personally, within sixty days from the day on
24 which (~~such~~) a copy of (~~such~~) the order, decision, or award was
25 communicated to such person, a notice of appeal to the board(~~(: PROVIDED, That)~~). However, a health services provider or other person
27 aggrieved by a department order or decision making demand, whether with
28 or without penalty, for repayment of sums paid to a provider of
29 medical, dental, vocational, or other health services rendered to an
30 industrially injured worker must, before he or she appeals to the
31 courts, file with the board and the director, by mail or personally,
32 within twenty days from the day on which (~~such~~) a copy of (~~such~~)
33 the order or decision was communicated to the health services provider
34 upon whom the department order or decision was served, a notice of
35 appeal to the board.

36 (b) Failure to file a notice of appeal with both the board and the
37 department shall not be grounds for denying the appeal if the notice of
38 appeal is filed with either the board or the department.

1 (2) Within ten days of the date on which an appeal has been granted
2 by the board, the board shall notify the other interested parties
3 (~~thereto~~) to the appeal of the receipt (~~thereof~~) of the appeal and
4 shall forward a copy of (~~said~~) the notice of appeal to (~~such~~) the
5 other interested parties. Within twenty days of the receipt of such
6 notice of the board, the worker or the employer may file with the board
7 a cross-appeal from the order of the department from which the original
8 appeal was taken(~~:- PROVIDED, That nothing contained in this section~~
9 ~~shall be deemed to change, alter or modify the practice or procedure of~~
10 ~~the department for the payment of awards pending appeal: AND PROVIDED,~~
11 ~~That failure to file notice of appeal with both the board and the~~
12 ~~department shall not be ground for denying the appeal if the notice of~~
13 ~~appeal is filed with either the board or the department: AND PROVIDED,~~
14 ~~That,~~)).

15 (3) If within the time limited for filing a notice of appeal to the
16 board from an order, decision, or award of the department, the
17 department (~~shall~~) directs the submission of further evidence or the
18 investigation of any further fact, the time for filing (~~such~~) the
19 notice of appeal shall not commence to run until (~~such~~) the person
20 (~~shall have~~) has been advised in writing of the final decision of the
21 department in the matter(~~:- PROVIDED, FURTHER, That~~)). In the event
22 the department (~~shall~~) directs the submission of further evidence or
23 the investigation of any further fact, as (~~above~~) provided in this
24 section, the department shall render a final order, decision, or award
25 within ninety days from the date (~~such~~) further submission of
26 evidence or investigation of further fact is ordered which time period
27 may be extended by the department for good cause stated in writing to
28 all interested parties for an additional ninety days(~~:- PROVIDED,~~
29 ~~FURTHER, That~~)).

30 (4) The department, either within the time limited for appeal, or
31 within thirty days after receiving a notice of appeal, may:

32 (a) Modify, reverse, or change any order, decision, or award(~~, or~~
33 ~~may~~); or

34 (b)(i) Except as provided in (b)(ii) of this subsection, hold (~~any~~
35 ~~such~~) an order, decision, or award in abeyance for a period of ninety
36 days which time period may be extended by the department for good cause
37 stated in writing to all interested parties for an additional ninety
38 days pending further investigation in light of the allegations of the
39 notice of appeal(~~, and~~); or

1 (ii) Hold an order, decision, or award issued under RCW 51.32.160
2 in abeyance for a period not to exceed ninety days from the date of
3 receipt of an application under RCW 51.32.160. The department may
4 extend the ninety-day time period for an additional sixty days for good
5 cause.

6 The board shall ~~((thereupon))~~ deny the appeal upon the issuance of
7 an order under (b) (i) or (ii) of this subsection holding an earlier
8 order, decision, or award in abeyance, without prejudice to the
9 appellant's right to appeal from any subsequent determinative order
10 issued by the department.

11 This subsection (4)(b) does not apply to applications deemed
12 granted under RCW 51.32.160.

13 (5) A provision of this section shall not be deemed to change,
14 alter, or modify the practice or procedure of the department for the
15 payment of awards pending appeal. However, if an employer appeals to
16 the board a department order granting temporary total disability
17 compensation or medical aid benefits under chapter 51.36 RCW, or both,
18 to a worker, the worker shall be entitled to the compensation or
19 benefits while the appeal is pending before the board, subject to the
20 requirements of RCW 51.32.240(3).

21 **Sec. 3.** RCW 51.16.140 and 1989 c 385 s 3 are each amended to read
22 as follows:

23 (1) Every employer who is not a self-insurer shall deduct from the
24 pay of each of his or her workers:

25 (a) One-half of the amount ~~((he or she))~~ the employer is required
26 to pay, for medical benefits within each risk classification. Such
27 amount shall be periodically determined by the director and reported by
28 him or her to all employers under this title: PROVIDED, That the state
29 governmental unit shall pay the entire amount into the medical aid fund
30 for volunteers, as defined in RCW 51.12.035, and the state
31 apprenticeship council shall pay the entire amount into the medical aid
32 fund for registered apprentices or trainees, for the purposes of RCW
33 51.12.130. The deduction under this section is not authorized for
34 premiums assessed under RCW 51.16.210; and

35 (b) Except as limited by subsection (2) of this section, a
36 surcharge of one-half of one percent of the premium deduction made
37 under (a) of this subsection.

1 (2) The amount deducted under subsection (1)(b) of this section
2 shall be paid by the employer along with the employer premiums required
3 under this title. The amounts remitted shall be deposited into the
4 benefit repayment fund. The deduction may not be made under subsection
5 (1)(b) of this section in any calendar quarter if in the immediately
6 preceding calendar quarter the amount in the benefit payment fund is
7 three hundred thousand dollars or more.

8 ~~((+2))~~ (3) It shall be unlawful for the employer, unless
9 specifically authorized by this title, to deduct or obtain any part of
10 the premium or other costs required to be by him or her paid from the
11 wages or earnings of any of his or her workers, and the making of or
12 attempt to make any such deduction shall be a gross misdemeanor.

13 **Sec. 4.** RCW 51.16.060 and 1985 c 315 s 1 are each amended to read
14 as follows:

15 Every employer not qualifying as a self-insurer, shall insure with
16 the state and shall, on or before the last day of January, April, July
17 and October of each year thereafter, furnish the department with a true
18 and accurate payroll for the period in which workers were employed by
19 it during the preceding calendar quarter, the total amount paid to such
20 workers during such preceding calendar quarter, and a segregation of
21 employment in the different classes established pursuant to this title,
22 and shall pay its premium thereon to the appropriate fund. Premiums
23 for a calendar quarter, whether reported or not, shall become due and
24 delinquent on the day immediately following the last day of the month
25 following the calendar quarter. The sufficiency of such statement
26 shall be subject to the approval of the director: PROVIDED, That the
27 director may in his or her discretion and for the effective
28 administration of this title require an employer in individual
29 instances to furnish a supplementary report containing the name of each
30 individual worker, his or her hours worked, his or her rate of pay and
31 the class or classes in which such work was performed: PROVIDED
32 FURTHER, That in the event an employer shall furnish the department
33 with four consecutive quarterly reports wherein each such quarterly
34 report indicates that no premium is due the department may close the
35 account: PROVIDED FURTHER, That the department may promulgate rules
36 and regulations in accordance with chapter 34.05 RCW to establish other
37 reporting periods and payment due dates in lieu of reports and payments
38 following each calendar quarter, and may also establish terms and

1 conditions for payment of premiums and assessments based on estimated
2 payrolls, with such payments being subject to approval as to
3 sufficiency of the estimated payroll by the department, and also
4 subject to appropriate periodic adjustments made by the department
5 based on actual payroll: AND PROVIDED FURTHER, That a temporary help
6 company which provides workers on a temporary basis to its customers
7 shall be considered the employer for purposes of reporting and paying
8 premiums and assessments under this title according to the appropriate
9 rate classifications as determined by the department: PROVIDED, That
10 the employer shall be liable for paying premiums and assessments,
11 should the temporary help company fail to pay the premiums and
12 assessments under this title.

13 Except as limited under RCW 51.16.140(2), each employer, except
14 employers qualifying as a self insurer, is hereby assessed a surcharge
15 in addition to other premiums due in an amount equal to the surcharge
16 deducted from the pay of his or her workers under RCW 51.16.140. This
17 amount shall be forwarded to the department each calendar quarter
18 together with other premiums and assessments due under this title.
19 Amounts remitted under this surcharge shall be deposited into the
20 benefit repayment fund.

21 NEW SECTION. Sec. 5. A new section is added to chapter 51.44 RCW
22 to read as follows:

23 The benefit repayment fund is created in the custody of the state
24 treasurer. All receipts from the deductions required under RCW
25 51.16.140(1)(b) shall be deposited into the fund. Transfers from the
26 benefit repayment fund to the medical aid fund or the accident fund
27 shall be made when benefits are paid under RCW 51.52.050(2) or
28 51.52.060(5) and the department order granting benefits is reversed or
29 modified resulting in an overpayment of benefits to the worker."

30 **EHB 1242** - CONF REPT
31 By Conference Committee

32

33 On page 1, line 2 of the title, after "appeals;" strike the
34 remainder of the title and insert "amending RCW 51.52.050, 51.52.060,

1 51.16.140, and 51.16.060; and adding a new section to chapter 51.44
2 RCW."

--- END ---