

2 **ESHB 1451 - H AMD 407 ADOPTED 3/15/95**

3 By Representative Dyer and others

4

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

7 "NEW SECTION. **Sec. 1.** (1) This chapter applies to self-insurance
8 groups under this title, except for self-insurance groups covered under
9 RCW 51.14.150. However, a self-insurance group under RCW
10 51.14.150(2)(c) may elect to be covered under this chapter.

11 (2)(a) Except as otherwise provided in (b) of this subsection,
12 self-insurance groups under this chapter are subject to all the
13 requirements applying to self-insured employers under this title.

14 (b) With the exception of RCW 51.14.080, 51.14.095, 51.14.100,
15 51.14.110, 51.14.120, 51.14.130, and 51.14.140, chapter 51.14 RCW does
16 not apply to self-insurance groups under this chapter.

17 NEW SECTION. **Sec. 2.** Unless the context clearly requires
18 otherwise, the definitions in this section apply throughout this
19 chapter.

20 (1) "Administrator" means an individual, partnership, or
21 corporation engaged by a self-insurance group's board of trustees to
22 carry out the policies established by the group's board of trustees and
23 to provide day-to-day management of the group.

24 (2) "Insolvent" or "insolvency" means the inability of a self-
25 insurance group to pay its outstanding lawful obligations as they
26 mature in the regular course of business, as shown either by an excess
27 of its required reserves and other liabilities over its assets or by it
28 not having sufficient assets to reinsure all of its outstanding
29 liabilities after paying all accrued claims owed by it.

30 (3) "Net premium" means premium derived from standard premium
31 adjusted by any advance premium discounts.

32 (4) "Service company" means any person or entity that provides
33 services to a self-insurance group not provided by the administrator,
34 including but not limited to:

35 (a) Claims adjustment;

- 1 (b) Safety engineering;
- 2 (c) Compilation of statistics and the preparation of premium, loss,
3 and tax reports;
- 4 (d) Preparation of other required self-insurance reports;
- 5 (e) Development of members' assessments and fees; and
- 6 (f) Administration of a claims fund.

7 (5) "Standard premium" means the premium derived from the manual
8 rates adjusted by experience modification factors but before advance
9 premium discounts.

10 (6) "Self-insurance group" or "group" means: (a) A not-for-profit
11 group consisting of five or more employers who are engaged in the same
12 or similar type of business and who enter into agreements to pool
13 assets to cover the employers' liabilities under this title; or (b) two
14 or more local government entities as specified in section 4 of this
15 act.

16 NEW SECTION. **Sec. 3.** No person, group, or other entity shall act
17 as a self-insurance group under this chapter unless it has been issued
18 a certificate of approval by the director.

19 NEW SECTION. **Sec. 4.** Two or more local government entities, as
20 defined in RCW 48.62.021, that are jointly self-insured under chapter
21 48.62 RCW may also apply for and be issued a certificate of approval
22 under this chapter as a workers' compensation self-insurance group to
23 cover the entities' liabilities under this title. The entities may
24 contract for or hire personnel to provide administrative services and
25 other services as required or permitted by this chapter and shall
26 possess any other powers and perform all other functions reasonably
27 necessary to carry out the purposes of this chapter. The entities
28 applying for a certificate of approval under this chapter shall provide
29 notice of the application to the state risk manager, as defined in RCW
30 48.62.021.

31 NEW SECTION. **Sec. 5.** (1) A proposed self-insurance group shall
32 file with the director its application for a certificate of approval as
33 a self-insurance group accompanied by a nonrefundable filing fee in an
34 amount of one hundred fifty dollars or such larger sum as the director
35 finds necessary for the administrative costs of evaluating the group's
36 qualifications. The application shall include the group's name,

1 location of its principal office, date of organization, name and
2 address of each member, and such other information as the director may
3 reasonably require together with the following information:

4 (a) Proof of compliance with the provisions of subsection (2) of
5 this section;

6 (b) A copy of the articles of the group, if any;

7 (c) A copy of agreements with the administrator and with any
8 service company;

9 (d) A copy of the bylaws of the proposed group;

10 (e) A copy of the group's safety and occupational health plan;

11 (f) A copy of the agreement between the group and each member
12 securing the payment of each member's liability to its employees
13 covered by this title, and the payment of assessments under section 18
14 of this act;

15 (g) A copy of the indemnity agreement jointly and severally binding
16 each member for the liability of the group and other members of the
17 group under this title;

18 (h) Designation of the initial board of trustees and administrator;

19 (i) The address in this state where the books and records,
20 including claims files, of the group will be maintained at all times;

21 (j) A pro forma financial statement on a form acceptable to the
22 director showing the financial ability of the group to pay the
23 obligations of its members under this title; and

24 (k) Proof of payment to the group by each member of not less than
25 twenty-five percent of that member's first year estimated annual net
26 premium on a date prescribed by the director. Each payment shall be
27 considered to be part of the first year premium payment of each member
28 if the proposed group is granted a certificate of approval.

29 (2) To obtain and maintain its certificate of approval, a self-
30 insurance group shall comply with the following requirements as well as
31 any other requirements established by rule of the director:

32 (a) A combined net worth of all members of the group of at least
33 two million dollars;

34 (b) Security in the form and amount prescribed by the director
35 which shall be provided by a surety bond, security deposit, letter of
36 credit, or financial security endorsement, or any combination thereof.
37 If a surety bond is used to meet the security requirement, it shall be
38 issued by a corporate surety company authorized to transact business in
39 this state. If a security deposit is used to meet the security

1 requirement, securities shall be limited to: Bonds or other evidences
2 of indebtedness issued, assumed, or guaranteed by the United States, or
3 by an agency or instrumentality thereof; certificates of deposit in a
4 federally insured bank; shares or savings deposits in a federally
5 insured savings and loan association or credit union; or any bond or
6 security issued by a state of the United States and backed by the full
7 faith and credit of the state. Any such securities shall be deposited
8 in an escrow account in a depository designated by the director.
9 Interest accruing on a negotiable security so deposited shall be
10 collected and transmitted to the depositor provided the depositor is
11 not in default. A financial security endorsement issued as part of an
12 acceptable excess insurance contract may be used to meet all or part of
13 the security requirement. The bond, security deposit, letter of
14 credit, or financial security endorsement shall be for the benefit of
15 the state solely to pay claims and associated expenses and payable on
16 the failure of the group to pay workers' compensation benefits that it
17 is legally obligated to pay under this title. The director may
18 establish and adjust, from time to time, requirements for the amount of
19 security based on differences among groups in their size, types of
20 employment, years in existence, and other relevant factors;

21 (c) Specific and aggregate excess insurance in an approved form, in
22 a stated amount, and by an insurance company authorized to transact
23 insurance business in the state of Washington;

24 (d) An estimated annual standard premium of at least one million
25 dollars during a group's first year of operation. Thereafter, the
26 annual standard premium per member shall be at least five hundred
27 dollars;

28 (e) An indemnity agreement jointly and severally binding the group
29 and each member thereof to meet the obligations of each member under
30 this title. The indemnity agreement shall be in a form prescribed by
31 the director and shall include minimum uniform substantive provisions
32 prescribed by the director. Subject to the director's approval, a
33 group may add other provisions needed because of its particular
34 circumstances;

35 (f) A fidelity bond for the administrator in a form and amount
36 prescribed by the director; and

37 (g) A fidelity bond for the service company in a form and amount
38 prescribed by the director. The director may also require the service
39 company providing claim services to furnish a performance bond in a

1 form and amount prescribed by the director.

2 (3) A group shall notify the director of any change in the
3 information required to be filed under subsection (1) of this section
4 or in the manner of its compliance with subsection (2) of this section
5 no later than thirty days after the change.

6 (4) The director shall evaluate the information provided by the
7 application required to be filed under subsection (1) of this section
8 to assure that no gaps in funding exist and that funds necessary to pay
9 benefits under this title will be available on a timely basis.

10 (5) The director shall act on a completed application for a
11 certificate of approval as a self-insurance group within sixty days.
12 If, because of the number of applications, the director is unable to
13 act on an application within this period, the director shall have an
14 additional sixty days to so act.

15 (6) The director shall issue a certificate of approval on finding
16 that the proposed self-insurance group has met all the requirements of
17 this chapter, or the director shall issue an order denying the
18 certificate on finding that the proposed group does not meet all
19 requirements. An order denying a certificate shall set forth the
20 reasons for the denial.

21 (7) Each self-insurance group shall be deemed to have appointed the
22 director as its attorney-in-fact to receive service of legal process
23 issued against it in this state. The appointment shall be irrevocable,
24 shall bind any successor in interest, and shall remain in effect as
25 long as there is in this state any obligation or liability of the group
26 for benefits under this title.

27 NEW SECTION. **Sec. 6.** (1) A certificate of approval issued by the
28 director to a self-insurance group authorizes the group to carry its
29 own liability under this title to its employees covered by this title.
30 The certificate of approval remains in effect until terminated at the
31 request of the group or revoked by the director pursuant to section 21
32 of this act.

33 (2)(a) The director may grant the request of any self-insurance
34 group to terminate its certificate of approval, effective not less than
35 thirty days after the request for termination. However, the
36 termination of a group under this section may not be effective until
37 each member of the group has filed with the director for industrial
38 insurance coverage under this title, has become a member of another

1 self-insurance group, has become an approved self-insurer, or has
2 ceased being an employer.

3 (b) A self-insurance group that has had its certificate of approval
4 terminated under this section must maintain surety deemed sufficient in
5 the director's discretion to cover the entire liability of the group to
6 its employees for injuries or occupational diseases that occurred
7 during the period that the group was self-insured.

8 (3) Subject to the approval of the director, a group may merge with
9 another group engaged in the same or similar type of business only if
10 the resulting group assumes in full all obligations of the merging
11 groups. The director may hold a hearing on the merger and shall do so
12 if any party, including a member of either group, so requests.

13 NEW SECTION. **Sec. 7.** Each self-insurance group shall be operated
14 by a board of trustees which shall consist of not less than five
15 persons elected by the members of a group for stated terms of office.
16 At least two-thirds of the trustees shall be employees, officers, or
17 directors of members of the group. The group's administrator, service
18 company, or any owner, officer, or employee of, or any other person
19 affiliated with such administrator or service company shall not serve
20 on the board of trustees of the group. All trustees shall be residents
21 of this state or officers of corporations authorized to do business in
22 this state. The board of trustees of each group shall ensure that all
23 claims under this title are paid promptly and shall take all necessary
24 precautions to safeguard the assets of the group, including all of the
25 following:

26 (1) The board of trustees shall:

27 (a) Maintain responsibility for all moneys collected or disbursed
28 from the group and segregate all moneys into a claims fund account and
29 an administrative fund account. At least seventy percent of the net
30 premium shall be placed into a designated depository for the sole
31 purpose of paying claims, allocated claims expenses, reinsurance or
32 excess insurance, and special fund contributions, including second
33 injury and other loss-related funds. This shall be called the claims
34 fund account. The remaining net premium shall be placed into a
35 designated depository for the payment of taxes, general regulatory fees
36 and assessments, and administrative costs. This shall be called the
37 administrative fund account. The director may approve an
38 administrative fund account of more than thirty percent and a claims

1 fund account of less than seventy percent only if the group shows to
2 the director's satisfaction that more than thirty percent is needed for
3 an effective safety and loss control program or the group's aggregate
4 excess insurance attaches at less than seventy percent;

5 (b) Maintain minutes of its meetings and make such minutes
6 available to the director;

7 (c) Designate an administrator to carry out the policies
8 established by the board of trustees and to provide day-to-day
9 management of the group, and delineate in the written minutes of its
10 meetings the areas of authority it delegates to the administrator; and

11 (d) Retain an independent certified public accountant to prepare
12 the statement of financial condition required by section 11(1) of this
13 act.

14 (2) The board of trustees shall not:

15 (a) Extend credit to individual members for payment of a premium,
16 except pursuant to payment plans approved by the director; or

17 (b) Borrow any moneys from the group or in the name of the group
18 except in the ordinary course of business without first advising the
19 director of the nature and purpose of the loan and obtaining prior
20 approval from the director.

21 NEW SECTION. **Sec. 8.** (1) An employer joining a self-insurance
22 group after the group has been issued a certificate of approval shall
23 submit an application for membership to the board of trustees or its
24 administrator, and enter into the indemnity agreement required by
25 section 5(2)(e) of this act. Membership may take effect no earlier
26 than the date of approval of the application. The application for
27 membership and its approval shall be maintained as permanent records of
28 the board of trustees and a copy filed with the director.

29 (2) Individual members of a group shall be subject to cancellation
30 by the group pursuant to the group's bylaws or by the director for a
31 violation of RCW 51.14.080(2). In addition, individual members may
32 elect to terminate their participation in the group. The group shall
33 notify the director of the termination or cancellation of a member
34 within ten days and shall maintain coverage of each canceled or
35 terminated member for thirty days after such notice, at the terminating
36 member's expense, unless the group is notified sooner by the department
37 that the canceled or terminated member has filed with the director for
38 industrial insurance under this title, has become an approved self-

1 insurer, has become a member of another self-insurance group, or has
2 ceased being an employer.

3 (3) The group shall pay all benefits under this title for which
4 each member incurs liability during its period of membership. A member
5 who elects to terminate its membership or is canceled by a group
6 remains jointly and severally liable for the obligations under this
7 title of the group and its members that were incurred during the
8 canceled or terminated member's period of membership.

9 (4) A group member is not relieved of its liabilities under this
10 title incurred during its period of membership except through payment
11 by the group or the member of the liabilities.

12 (5) The insolvency or bankruptcy of a member does not relieve the
13 group or any other member of liability for the payment of any
14 obligations under this title incurred during the insolvent or bankrupt
15 member's period of membership.

16 NEW SECTION. **Sec. 9.** (1) No service company or its employees,
17 officers, or directors may be an employee, officer, or director of or
18 have either a direct or indirect financial interest in an
19 administrator. No administrator or its employees, officers, or
20 directors may be an employee, officer, or director of or have either a
21 direct or indirect financial interest in a service company.

22 (2) The service contract shall state that unless the director
23 permits or requires otherwise the service company shall handle, to
24 their conclusion, all claims and other obligations incurred during the
25 contract period.

26 NEW SECTION. **Sec. 10.** Except for an employee of a self-insurance
27 group, its administrator, or its service company, any person soliciting
28 membership in a self-insurance group under this chapter must have a
29 solicitation permit as provided in chapter 48.06 RCW.

30 NEW SECTION. **Sec. 11.** (1) Each self-insurance group shall submit
31 to the director a statement of financial condition audited by an
32 independent certified public accountant on or before the last day of
33 the sixth month following the end of the group's fiscal year. The
34 financial statement shall be on a form prescribed by the director and
35 shall include, but not be limited to, actuarially appropriate reserves
36 for known claims and expenses associated therewith, claims incurred but

1 not reported and expenses associated therewith, unearned premiums, and
2 bad debts, which reserves shall be shown as liabilities. An actuarial
3 opinion regarding reserves for known claims and expenses associated
4 therewith and claims incurred but not reported and expenses associated
5 therewith shall be included in the audited financial statement. The
6 actuarial opinion shall be approved by the director or be given by a
7 member of the American academy of actuaries or other qualified loss
8 reserve specialist as defined in the annual statement adopted by the
9 national association of insurance commissioners.

10 (2) The director may prescribe the format and frequency of other
11 reports which may include, but shall not be limited to, payroll audit
12 reports, summary loss reports, and quarterly financial statements.

13 NEW SECTION. **Sec. 12.** No person may make a material
14 misrepresentation or omission of a material fact in connection with the
15 solicitation of membership in a self-insurance group.

16 NEW SECTION. **Sec. 13.** Funds not needed for current obligations
17 may be invested by a self-insurance group's board of trustees in
18 accordance with chapter 48.13 RCW.

19 NEW SECTION. **Sec. 14.** (1) Every self-insurance group shall adhere
20 to the uniform classification system, uniform experience rating plan,
21 and manual rates and rules filed with the director by an advisory
22 organization designated by the director.

23 (2) Premium contributions to the group shall be determined by
24 applying the manual rates and rules to the appropriate classification
25 of each member which shall be adjusted by each member's experience
26 credit or debit. Subject to approval by the director, premium
27 contributions may also be reduced by an advance premium discount
28 reflecting the group's expense levels and loss experience. A group may
29 apply to the director for permission to make its own rates, and if
30 permission is granted, the rates must be based on at least five years
31 of the group's experience.

32 (3) Each group shall be audited at least annually by an auditor
33 acceptable to the director to verify proper classifications, experience
34 rating, payroll, and rates. A report of the audit shall be filed with
35 the director in a form acceptable to the director. A group or any
36 member thereof may request a hearing on any objection to the

1 classification. If the director determines that as a result of an
2 improper classification a member's premium contribution is
3 insufficient, the director shall order the group to assess that member
4 an amount equal to the deficiency. If the director determines that as
5 a result of an improper classification a member's premium is excessive,
6 the director shall order the group to refund to the member the excess
7 collected. The audit shall be at the expense of the group.

8 NEW SECTION. **Sec. 15.** (1) Any moneys for a fund year in excess of
9 the amount necessary to fund all obligations under this title for that
10 fund year may be declared to be refundable by the self-insurance
11 group's board of trustees not less than twelve months after the end of
12 the fund year.

13 (2) Each member shall be given a written description of the refund
14 plan at the time of application for membership. A refund for any fund
15 year shall be paid only to those employers who remain participants in
16 the group for the entire fund year. Payment of a refund based on a
17 previous fund year shall not be contingent on continued membership in
18 the group after that fund year.

19 NEW SECTION. **Sec. 16.** (1) Each self-insurance group shall
20 establish to the satisfaction of the director a premium payment plan
21 which shall include an initial payment by each member of at least
22 twenty-five percent of that member's annual premium before the start of
23 the group's fund year and payment of the balance of each member's
24 annual premium in monthly or quarterly installments.

25 (2) Each group shall establish and maintain actuarially appropriate
26 loss reserves which shall include reserves for known claims and
27 expenses associated therewith and claims incurred but not reported and
28 expenses associated therewith.

29 (3) Each group shall establish and maintain bad debt reserves based
30 on the historical experience of the group or other groups.

31 NEW SECTION. **Sec. 17.** (1) If the assets of a self-insurance group
32 are at any time insufficient to enable the group to discharge its
33 liabilities under this title and to maintain the reserves required of
34 it under this chapter, it shall forthwith make up the deficiency or
35 levy an assessment on its members for the amount needed to make up the
36 deficiency.

1 (2) In the event of a deficiency in any fund year, the deficiency
2 shall be made up immediately from surplus from a fund year other than
3 the current fund year, administrative funds, assessment of the
4 membership if ordered by the group, or such alternative method as the
5 director approves or directs. The director shall be notified prior to
6 any transfer of surplus funds from one fund year to another.

7 (3)(a) If the group fails to assess its members or to otherwise
8 make up such deficit within thirty days, the director shall order it to
9 do so.

10 (b) If the group fails to make the required assessment of its
11 members within thirty days after the director orders it to do so, or if
12 the deficiency is not fully made up within sixty days after the date on
13 which such assessment is made, or within such longer period of time as
14 specified by the director, the group shall be deemed to be insolvent.

15 (c) The director shall proceed against an insolvent group in the
16 same manner as the director would proceed against an insolvent self-
17 insurer under chapter 51.14 RCW.

18 (d) If a self-insurance group is liquidated, the director shall
19 levy an assessment on its members for an amount determined by the
20 director to be necessary to discharge all liabilities of the group,
21 including the reasonable costs of liquidation.

22 (4) A self-insurance group insolvency trust shall be established
23 following the rules pursuant to RCW 51.14.077.

24 NEW SECTION. **Sec. 18.** If liquidation occurs under section 17 of
25 this act, after exhausting the security required under section 5(2)(b)
26 of this act, the director shall levy an assessment against all self-
27 insurance groups under this chapter to assure prompt payment of such
28 benefits. The assessment on each group shall be based on the
29 proportion that the premium of each group bears to the total premium of
30 all groups under this chapter. The director may exempt a group from
31 assessment on finding that the payment of the assessment would render
32 the group insolvent. Such assessment shall not relieve any member of
33 an insolvent group of its joint and several liability. After any such
34 assessment is made, the director shall take action to enforce the joint
35 and several liability provisions of the insolvent group's indemnity
36 agreement, and shall recoup all costs incurred by the director in
37 enforcing such joint and several liability provisions, amounts that the
38 director assessed any other groups pursuant to this section, and any

1 obligations included within section 17(3)(d) of this act.

2 NEW SECTION. **Sec. 19.** After notice and opportunity for a hearing,
3 the director may impose a monetary penalty on any person or self-
4 insurance group found to be in violation of any provision of this
5 chapter or of any rules adopted under this chapter. Such monetary
6 penalty shall not exceed one thousand dollars for each violation and
7 shall not exceed ten thousand dollars in the aggregate. The amount of
8 any monetary penalty shall be paid to the director for deposit in the
9 state general fund.

10 NEW SECTION. **Sec. 20.** (1) After notice and opportunity for a
11 hearing, the director may issue an order requiring a person or self-
12 insurance group to cease and desist from engaging in an act or practice
13 found to be in violation of this chapter or of any rules adopted under
14 this chapter.

15 (2) On a finding, after notice and opportunity for a hearing, that
16 any person or self-insurance group has violated a cease and desist
17 order, the director may do either or both of the following:

18 (a) Impose a monetary penalty of not more than ten thousand dollars
19 for each violation of the order not to exceed an aggregate monetary
20 penalty of one hundred thousand dollars; or

21 (b) Revoke the group's certificate of approval.

22 NEW SECTION. **Sec. 21.** (1) After notice and opportunity for a
23 hearing, the director may revoke a self-insurance group's certificate
24 of approval if it is found to be insolvent, fails to pay a regulatory
25 fee, assessment, or special fund contribution imposed on it, or fails
26 to comply with any of the provisions of this chapter, with any rules
27 adopted under this chapter, or with any lawful order of the director,
28 within the time prescribed. In addition, the director may revoke a
29 group's certificate of approval if, after notice and opportunity for a
30 hearing, the director finds that the certificate of approval that was
31 issued to the group was obtained by fraud, that there was a material
32 misrepresentation in the application for the certificate of approval,
33 or that the group or its administrator has misappropriated, converted,
34 illegally withheld, or refused to pay over on proper demand any moneys
35 that belong to a member, an employee of a member, or a person otherwise
36 entitled thereto and that have been entrusted to the group or its

1 administrator in its fiduciary capacities.

2 (2) The director shall serve on the self-insurance group,
3 personally or by certified mail, a notice of intention to revoke the
4 group's certificate of approval, which notice shall describe the nature
5 and location of the plants or operations involved and the specific
6 nature of the reasons for the decision. The notice shall include: (a)
7 The period of time within which the grounds for revocation existed or
8 arose; (b) a directive to the group specifying the manner in which the
9 grounds may be eliminated; and (c) the date, not less than thirty days
10 after the self-insurer's receipt of the notice, when the certificate of
11 approval will be withdrawn in the absence of a satisfactory elimination
12 of the grounds for withdrawal of the certificate.

13 (3) An appeal of any action by the director under this section may
14 be taken by the self-insurance group. Proceedings on the appeal shall
15 be as prescribed in this title. Appeal by a group of a notice of
16 intention to withdraw a certificate of approval or to take corrective
17 action shall not act as a stay of the withdrawal or corrective action
18 unless the board or court, for good cause shown, orders otherwise.

19 NEW SECTION. **Sec. 22.** The director may adopt rules to implement
20 this chapter, including rules providing for administrative assessments
21 of self-insurance groups under this chapter.

22 NEW SECTION. **Sec. 23.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 **Sec. 24.** RCW 48.62.011 and 1991 sp.s. c 30 s 1 are each amended to
27 read as follows:

28 This chapter is intended to provide the exclusive source of local
29 government entity authority to individually or jointly self-insure
30 risks, jointly purchase insurance or reinsurance, and to contract for
31 risk management, claims, and administrative services. This chapter
32 shall be liberally construed to grant local government entities maximum
33 flexibility in self-insuring to the extent the self-insurance programs
34 are operated in a safe and sound manner. This chapter is intended to
35 require prior approval for the establishment of every individual local
36 government self-insured employee health and welfare benefit program and

1 every joint local government self-insurance program. In addition, this
2 chapter is intended to require every local government entity that
3 establishes a self-insurance program not subject to prior approval to
4 notify the state of the existence of the program and to comply with the
5 regulatory and statutory standards governing the management and
6 operation of the programs as provided in this chapter. This chapter is
7 not intended to authorize or regulate self-insurance of unemployment
8 compensation under chapter 50.44 RCW, or industrial insurance under
9 (~~chapter 51.14~~) Title 51 RCW.

10 **Sec. 25.** RCW 51.14.080 and 1986 c 57 s 7 are each amended to read
11 as follows:

12 (1) Certification of a self-insurer shall be withdrawn by the
13 director upon one or more of the following grounds:

14 (~~(1)~~) (a) The employer no longer meets the requirements of a
15 self-insurer; or

16 (~~(2)~~) (b) The self-insurer's deposit is insufficient; or

17 (~~(3)~~) (c) The self-insurer intentionally or repeatedly induces
18 employees to fail to report injuries, induces claimants to treat
19 injuries in the course of employment as off-the-job injuries, persuades
20 claimants to accept less than the compensation due, or unreasonably
21 makes it necessary for claimants to resort to proceedings against the
22 employer to obtain compensation; or

23 (~~(4)~~) (d) The self-insurer habitually fails to comply with rules
24 and regulations of the director regarding reports or other requirements
25 necessary to carry out the purposes of this title; or

26 (~~(5)~~) (e) The self-insurer habitually engages in a practice of
27 arbitrarily or unreasonably refusing employment to applicants for
28 employment or discharging employees because of nondisabling bodily
29 conditions; or

30 (~~(6)~~) (f) The self-insurer fails to pay an insolvency assessment
31 under the procedures established pursuant to RCW 51.14.077.

32 (2) Certification of a self-insurance group subject to chapter
33 51.-- RCW (sections 1 through 23 of this act) shall be withdrawn by the
34 director or an employer's membership in the group shall be canceled by
35 the director upon any of the grounds listed in subsection (1) of this
36 section or upon any of the following grounds, or both:

37 (a) The self-insurance group, employer member of the group, or
38 group's or employer's representative unreasonably attempts to influence

1 an employee's attending physician with regard to releasing the employee
2 for return to work;

3 (b) The self-insurance group, employer member of the group, or
4 group's or employer's representative requires claimants to submit to an
5 unreasonable number of medical examinations as a condition of receiving
6 benefits under this title; or

7 (c) The self-insurance group, employer member of the group, or
8 group's or employer's representative unreasonably interferes with the
9 claimants' choice of health services providers to treat the injuries
10 covered by this title.

11 **Sec. 26.** RCW 51.48.025 and 1985 c 347 s 8 are each amended to read
12 as follows:

13 (1) No employer may discharge or in any manner discriminate against
14 any employee because such employee has filed or communicated to the
15 employer an intent to file a claim for compensation or exercises any
16 rights provided under this title. However, nothing in this section
17 prevents an employer from taking any action against a worker for other
18 reasons including, but not limited to, the worker's failure to observe
19 health or safety standards adopted by the employer, or the frequency or
20 nature of the worker's job-related accidents.

21 (2) Any employee who believes that he or she has been discharged or
22 otherwise discriminated against by an employer in violation of this
23 section may file a complaint with the director alleging discrimination
24 within ninety days of the date of the alleged violation. Upon receipt
25 of such complaint, the director shall cause an investigation to be made
26 as the director deems appropriate. Within ninety days of the receipt
27 of a complaint filed under this section, the director shall notify the
28 complainant of his or her determination. If upon such investigation,
29 it is determined that this section has been violated, the director
30 shall bring an action in the superior court of the county in which the
31 violation is alleged to have occurred.

32 (3) If the director determines that this section has not been
33 violated, the employee may institute the action on his or her own
34 behalf.

35 (4) In any action brought under this section, the superior court
36 shall have jurisdiction, for cause shown, to restrain violations of
37 subsection (1) of this section and to order all appropriate relief
38 including rehiring or reinstatement of the employee with back pay. The

1 party who prevails in an action under this section against a self-
2 insurance group subject to chapter 51.-- RCW (sections 1 through 23 of
3 this act) or against an employer member of such a group shall be
4 entitled to recover reasonable attorneys' fees.

5 NEW SECTION. Sec. 27. Sections 1 through 23 of this act shall
6 constitute a new chapter in Title 51 RCW."

7 **ESHB 1451** - H AMD
8 By Representative

9

10 On page 1, line 2 of the title, after "self-insurance;" strike the
11 remainder of the title and insert "amending RCW 48.62.011, 51.14.080,
12 and 51.48.025; adding a new chapter to Title 51 RCW; and prescribing
13 penalties."

--- END ---