

HOUSE BILL REPORT

HB 2705

As Reported By House Committee On:

Commerce & Labor

Title: An act relating to extending existing employer workers' compensation group self-insurance to the logging industry.

Brief Description: Extending existing employer workers' compensation group self-insurance.

Sponsors: Representatives McMorris, Kessler, Hatfield, Doumit, Linville, Buck, Dyer and Gardner.

Brief History:

Committee Activity:

Commerce & Labor: 1/28/98, 2/5/98 [DPS].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Boldt; Clements; Hatfield and Lisk.

Minority Report: Do not pass. Signed by 3 members: Representatives Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; and Cole.

Staff: Chris Cordes (786-7103).

Background: Employers covered by the industrial insurance law must insure their responsibilities under the law by self-insuring or by purchasing insurance from the Department of Labor and Industries. To self-insure, an employer must meet certain qualifications, including demonstrating sufficient financial ability to secure the payment of industrial insurance benefits. Self-insurance groups are permitted only for employers that are school districts, educational service districts, or hospitals.

Group self-insurers operate under department rules that address requirements for formation of and membership in the group, responsibilities of the group's trust fund trustees, and the amount of reserves that must be maintained to assure financial solvency of the group.

Group self-insurers are considered "employers" subject to the same regulation as other self-insurers, including decertification. The department may withdraw a self-insurer's certification on a number of grounds, including that the self-insurer fails to meet the financial and other requirements of the law, intentionally or repeatedly induces employees to fail to report injuries or to report injuries as off-the-job injuries, persuades claimants to accept less than the benefits due, or unreasonably makes it necessary for claimants to resort to proceedings to obtain compensation.

All self-insurers, except school districts, cities, and counties, participate in a self-insurance insolvency trust.

Summary of Substitute Bill: Employers in the logging industry are permitted to form industrial insurance self-insurance groups.

Who may group self-insure

Two or more employers in the logging industry may form self-insurance groups to cover their industrial insurance responsibilities if: (1) the employers are members of a qualified organization; and (2) the formation of the group self-insurance program will improve accident prevention and claim management for the employers.

A qualified organization is one that:

- has been in existence for at least five years;
- was formed for a purpose other than that of obtaining workers' compensation coverage under group self-insurance;
- has, as members, employers with substantially similar occupations within the logging industry;
- permits any employer in the logging industry to join the organization for self-insuring if the employer meets membership requirements and follows the group self-insurance rules; and
- permits any of its members in the logging industry to join the self-insurance group.

These self-insurance groups are "employers" subject to regulation as self-insurers, except for purposes of the existing self-insurance insolvency trust.

Group self-insurance insolvency trust account

A group self-insurers' insolvency trust account is created to provide for the unsecured benefits paid to injured workers of defaulting group self-insurers. The account will be funded by post-insolvency assessments against all group self-insurers, except school districts and hospitals, in proportion to their claim costs, after the defaulting group's security deposit has been exhausted.

Substitute Bill Compared to Original Bill: The substitute bill clarifies that only the logging industry's self-insurance groups are made exempt from the existing self-insurance insolvency trust and removes a reference that conflicted with the requirement for the groups to have reinsurance.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: State fund premiums for the logging industry are extremely high. If logging industry employers do not get some relief, they will be forced to cut employee benefits. Logging industry employers in the state fund cannot compete with employers who are self-insured. Under this bill, the groups will be required to accept all employers who wish to join the group. Group self-insurance will benefit workers because they will no longer pay a share of the medical aid premium and they will receive better claim service. Employers will benefit because the savings will be greater than retrospective rating programs can offer.

Testimony Against: It is not clear that the logging industry employer groups have the financial ability to sustain large losses. Two organizations currently in retrospective rating could qualify for self-insurance under the bill. Through the insolvency fund created in the bill, these two groups would be responsible for each other's defaults. Some states have reported serious losses because of defaulting self-insured groups. Group self-insurance is more like a mutual insurance company than self-insurance. Retrospective rating programs are better alternatives for these smaller employers. The employers will not see the return-to-work success of large self-insured employers because of the lack of light duty positions. Frequently, the emphasis in self-insurance is on claims closure, not claims management. This issue needs further study.

Testified: (In support) Tom Van Slyke, Vaughn Bay Lumber Company; Galen McGinnis and Gary Barnett, Short Haul Trucking; and Bill Pickell, Washington Contract Loggers Association. (Opposed) Douglas Connell, Department of Labor and Industries; Robby Stern, Washington State Labor Council; and Michael Temple, Washington State Trial Lawyers Association.