# SENATE BILL REPORT

# SB 5259

As Reported By Senate Committee On:
Commerce & Labor, February 18, 1997

**Title:** An act relating to expansion of employer workers' compensation group self-insurance.

**Brief Description:** Expanding employer workers' compensation group self-insurance.

**Sponsors:** Senators Anderson, Schow, West and Newhouse.

**Brief History:**
**Committee Activity:** Commerce & Labor: 2/3/97, 2/18/97 [DPS, DNPS].

## SENATE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** That Substitute Senate Bill No. 5259 be substituted therefor, and the substitute bill do pass.
Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

**Minority Report:** Do not pass substitute.
Signed by Senators Franklin, Fraser and Heavey.

**Staff:** Jack Brummel (786-7428)

**Background:** Group self-insurance is workers' compensation insurance with risk-sharing among the employer members of the group. Group members pay premiums into a fund which is then used to pay the workers' compensation costs that the employers incur. Should the premiums collected prove insufficient, each member pledges its assets to pay benefits.

Washington authorized school districts, educational service districts and hospitals to form self-insurance groups in 1983, subject to regulation by the Department of Labor and Industries.

Local government entities may form joint self-insurance programs subject to the approval of, and rules promulgated by, the state risk manager in the Department of General Administration.

**Summary of Substitute Bill:** Self-insurance groups formed under the provisions of the bill must have five or more employers, be nonprofit social service agencies, retail, forest product, or fast food companies, or local government entities and be certified by the Department of Labor and Industries. The combined net worth of group members must be $2 million or greater. The annual premium for the group for the initial year must be at least $1 million; thereafter the annual premium must be $500,000.

Self-insurance groups are required to establish security as prescribed by the Department of Labor and Industries and purchase excess insurance and fidelity bonds. The members of the group must enter into an agreement that binds each of them to meet the workers' compensation obligations of each other.

Each self-insurance group is to be overseen by a board of trustees which is responsible for management of the group's funds and the designation of an administrator for day-to-day operations. Administrators and service companies may not have overlapping employees, officers, or directors.

Each group must submit to a financial audit and an audit of premium contributions each year. The director may also require payroll audit, summary loss, and other reports. A director designated advisory group establishes a classification system, experience rating plan, and manual rates and rules for self-insured groups.

The director may order a group to make up any deficiency in necessary funds and must take action against an insolvent group. The director must enforce the indemnity agreement of a group. All self-insurance groups may be levied an assessment in the event insolvency proceedings do not net sufficient funds to cover the obligations of the insolvent group.

Penalties may be levied, or certification may be revoked, by the director for noncompliance with the requirements of the bill.

A task force is to study the effects of the bill.

**Substitute Bill Compared to Original Bill:** The substitute bill: (1) adds legislative findings and intent; (2) limits application of the chapter to nonprofit social service agencies, retail trade companies, forest product companies, fast food establishments, and local government entities that are jointly self-insured under other provisions of Washington law; (3) requires an annual standard premium of at least $500,000 per group; (4) allows public hospital districts to enter into an agreement to join the public hospital self-insurance group; (5) allows the director to serve a notice of intention to revoke a certificate of approval by electronic means; (6) places penalties collected from self-insurance groups in the department funds used to pay for monitoring and enforcement; (7) specifies that a letter of credit used as security must be from a federally or state chartered bank allowed to operate in Washington; (8) prohibits joining a new group for three years after leaving a group; and (9) establishes a task force to review the effects of authorizing group self-insurance.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** Group self-insurance has proven a good idea for schools and hospitals and it can be beneficial for all employers. Allowing group self-insurance will help small businesses compete with larger businesses. This would improve injured worker outcomes. There are protections in the bill to stem abuse.

**Testimony Against:** This would cause a creaming of the state fund, increasing its riskiness and making it cost more for the employers that are left. Group members that go out of business will leave other members responsible for their losses. The bill needs stronger decertification requirements for impropriety.

**Testified:** Senator Anderson, prime sponsor (pro); Robbie Stern, Jeff Johnson, WA State Labor Council (con); Karen McDonnell (con); Sheila Sandwick (con); Didi Hitchens, NFIS (pro); Clif Finch, AWB (pro); Dick King, IBEW (con); Doug Connel, L&I (con); Tom Kwieziak, Rod Stewart, BIAW (con); Kit Hawkins (pro); Wayne Lieb, Michael Temple, WA State Trial Lawyers (con); Bob Dilger, WA State Building Trades (con).