

HOUSE BILL REPORT

HB 2233

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to the entrance criteria for retrospective rating groups.

Brief Description: Creating a retrospective rating plan.

Sponsors: Representatives Conway, Clements and Kessler; by request of Department of Labor & Industries.

Brief History:

Committee Activity:

Commerce & Labor: 3/1/99 [DP].

Brief Summary of Bill

- Establishes the industrial insurance retrospective rating plan in statute, including modifying the entrance requirements for sponsors of new group retrospective rating plans and deleting the requirement for members of a sponsoring organization to be engaged in substantially similar occupations.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 7 members: Representatives Clements, Republican Co-Chair; Conway, Democratic Co-Chair; B. Chandler, Republican Vice Chair; Hurst; Lisk; McIntire and McMorris.

Minority Report: Do not pass. Signed by 1 member: Representative Wood, Democratic Vice Chair.

Staff: Chris Cordes (786-7103).

Background:

The Department of Labor and Industries determines the premium rates that employers pay for industrial insurance with the state fund. The rates must be the lowest rates necessary to maintain actuarial solvency in accordance with recognized insurance

principles. The rating system must also be consistent with recognized principles of workers' compensation insurance and be designed to stimulate and encourage accident prevention. The department may readjust rates in accordance with the rating system.

The department is authorized to insure the workers' compensation obligations of employers as a group, and consider the group as a single employing entity for purposes of dividends or premium discounts, if:

- all employers in the group are members of an organization that has been in existence for at least two years;
- the organization was formed for a purpose other than that of obtaining workers' compensation coverage;
- the occupations or industries of the employers in the organization are substantially similar; and
- the formation and operation of the group will substantially improve accident prevention and claim management.

The department has adopted rules providing for retrospective adjustment of an employer's premium under a retrospective rating plan. The plan is also available to groups of employers qualified under the statute. The plan is available on a voluntary basis for a one-year period, beginning in January, April, July, or October, and may be renewed at the end of that year. The plan must be consistent with recognized insurance principles and be administered under rules adopted by the department. Under department rules, sponsors of retrospective rating groups must meet specified criteria and choose a single industry category for the group plan.

Under the rules, a group sponsor may be placed on probationary status or disqualified until deficiencies have been corrected if additional premium assessments occur in consecutive coverage periods.

Summary of Bill:

The Department of Labor and Industries is directed to offer a voluntary retrospective rating plan to qualified employers and groups of employers. The plan will be available for one year, renewable at the end of the year. The plan must be consistent with recognized insurance principles and be administered under department rules. Retrospective rating groups approved prior to the bill's effective date remain approved.

Initial entrance standards for proposed retrospective rating groups. For initial entrance as a retrospective rating group, the following criteria must be met:

- The sponsor of the plan must have been in existence for at least four years.
- The sponsor must exist primarily for a purpose other than providing insurance coverage.

- The sponsor must have a written safety plan and propose methods for cooperating with department claims management activities.
- All employers in the group must be members of the sponsor.
- All employers in the group must have industrial insurance accounts in good standing.
- Fifty percent of the original employers in the group must have been members of the sponsor for one year prior to the group entering the retrospective rating plan.
- The group must be composed of employers who are substantially similar considering the work performed by the employees.
- The initial premium level must be at least \$1.5 million.
- The formation and operation of the group must seek to substantially improve workplace safety for the group's employers.

Industry categories. To ensure that all retrospective rating groups are made up of employers who are engaged in substantially similar activities or services, the sponsor must select a single broad industry category when forming a retrospective rating group from the following categories:

- Agriculture.
- Vehicle manufacturing, sales, and repair.
- Construction.
- Chemical and food production.
- Property management.
- Government, utilities, schools, and health care.
- Health care, pharmaceuticals and laboratories.
- Logging and wood products.
- Manufacturing.
- Retail.
- Temporary help.
- Transportation.

The department may, by rule, modify the list of industry categories by adding categories in response to significant changes in marketplace demographics and by removing categories if the industry is no longer found in Washington.

Retrospective rating groups approved prior to the bill's effective date may continue, even if the group does not meet the category criteria.

Sponsoring multiple groups. Sponsors of retrospective rating groups existing on the bill's effective date may not sponsor additional groups in a new industry category until January 1, 2003. Sponsors of groups approved after the bill's effective date may not add other groups in a new industry category until the minimum mandatory adjustment periods are completed for the last formed group. However, sponsors may

divide existing groups and merge existing separate groups, as long as the same industry categories are maintained.

Insurers may not sponsor a group or participate in a group's formation.

Disqualification of a group. A group that is required to pay additional premium assessments in two consecutive coverage periods will be placed on probationary status and must undergo a review by the department. A group that is required to pay additional premium assessments in the third consecutive coverage period will be denied future enrollment in the retrospective rating plan and the sponsor may not sponsor another group in the same business category for five coverage periods.

Appropriation: None.

Fiscal Note: Requested on February 23, 1999.

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

Testimony For: When the Department of Labor and Industries created the retrospective rating program in the early 1980's, it was a way for trade associations of similar employers to improve safety and reduce industrial insurance costs. The department encouraged groups to form because of the program's success. Eventually sponsors with heterogeneous memberships were allowed to form retrospective rating groups. But a recent review of the department's rules indicated that the heterogeneous sponsors were outside the statute's scope. This bill will allow current heterogeneous sponsors to continue with their retrospective rating plans. It will also increase safety consciousness and give the department clear guidance for its rules. Without this bill, several current retrospective rating groups will not be able to continue after plan expiration. The heterogeneous sponsors have shown that their programs are well run and successful. These programs are extremely valuable to the sponsor's members and to the industrial insurance program.

(Concerns) The bill should require corrective action if a retrospective rating group is placed on probation. There is a large concern about the retrospective rating program because the refunds go only to employers, even though employees make a significant contribution to the refund by working safely. Concerns include the relationship between claims management and retrospective rating groups, and between what the bill is trying to accomplish and the recommendations from the Joint Legislative Audit Review Committee (JLARC) workers' compensation audit.

Testimony Against: None.

Testified: (In favor) Gary Moore, Department of Labor and Industries; Don Brunell and Bob McCallister, Association of Washington Business; Dedi Hitchens, National Federation of Independent Business; and Dana Childers, Greater Seattle Chamber of Commerce.

(In favor, with concerns) Michael Temple, Washington State Trial Lawyers Association.

(With concerns) Robby Stern, Washington State Labor Council.