
HOUSE BILL 2233

State of Washington

56th Legislature

1999 Regular Session

By Representatives Conway, Clements and Kessler; by request of
Department of Labor & Industries

Read first time 02/23/1999. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the entrance criteria for retrospective rating
2 groups; amending RCW 51.16.035; and adding a new chapter to Title 51
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that the retrospective
6 rating plan provided for in RCW 51.16.035 has proven to be highly
7 effective both in terms of improved workplace safety and injured worker
8 outcomes. As a result, the number of industrial insurance claims of
9 many employers participating in the retrospective rating plan have been
10 reduced through sound risk management strategies and enhanced
11 cooperation with department claims management activities.

12 The legislature further finds that entrance criteria for the
13 retrospective rating plan under RCW 51.16.035 should be clear and
14 understandable to both the department and potential retrospective
15 rating plan participants.

16 The legislature therefore declares that a new retrospective rating
17 plan is needed in order to protect and preserve the integrity and
18 welfare of the retrospective rating system.

1 NEW SECTION. **Sec. 2.** (1) The department shall offer a
2 retrospective rating plan to insure the workers' compensation
3 obligations of employers and groups of employers. The plan is to be
4 made available to any employer or group of employers who:

5 (a) Voluntarily elects to participate in the plan; and

6 (b) Meets the requirements of this chapter and rules adopted by the
7 department under subsection (2) of this section.

8 (2) The retrospective rating plan shall be consistent with
9 recognized insurance principles and shall be administered according to
10 rules adopted by the department. Rules adopted under this section
11 shall encourage broad participation by qualified employers and sponsors
12 of retrospective rating groups.

13 (3) Each retrospective rating group approved by the department
14 under this chapter shall select a coverage period and may be renewed at
15 the end of each coverage period. For the purposes of this section,
16 "coverage period" means a twelve-month period provided by the
17 department by rule.

18 NEW SECTION. **Sec. 3.** Prior to allowing initial entrance into the
19 state's retrospective rating plan, the department shall review each
20 proposed retrospective rating group to ensure that the following
21 criteria are met:

22 (1) The entity sponsoring the retrospective rating group must have
23 been in existence for at least four years;

24 (2) The entity sponsoring the retrospective rating group must exist
25 primarily for a purpose other than that of obtaining or offering
26 insurance coverage or insurance related services;

27 (3) The entity sponsoring the retrospective rating group must have
28 a written workplace safety and accident prevention plan in place for
29 the proposed retrospective rating group and must propose methods by
30 which the retrospective rating group will cooperate with department
31 claims management activities;

32 (4) All employers in the retrospective rating group must be members
33 of the sponsoring entity;

34 (5) All employers in the retrospective rating group must have an
35 industrial insurance account in good standing with the department;

36 (6) Fifty percent of the original employers in the retrospective
37 rating group must have been members of the sponsoring entity for one
38 year prior to the group's entrance into the retrospective rating plan;

1 (7) The retrospective rating group must be composed of employers
2 who are substantially similar considering the services or activities
3 performed by the employees of those employers;

4 (8) The initial premium level for the retrospective rating group
5 must be at least one million five hundred thousand dollars and shall be
6 based on the standard premium of the proposed group members' most
7 current previous coverage period; and

8 (9) The formation and operation of the retrospective rating group
9 must seek to substantially improve workplace safety and accident
10 prevention for the employers in the group.

11 NEW SECTION. **Sec. 4.** (1) Entities which sponsored retrospective
12 rating groups prior to the effective date of this act, may not sponsor
13 additional retrospective rating groups in a new business or industry
14 category until the coverage period beginning January 1, 2003.

15 (2) For retrospective rating groups approved by the department on
16 or after the effective date of this act, the sponsoring entity may not
17 propose another retrospective rating group in a new business or
18 industry category until the minimum mandatory adjustment periods
19 required by the department for the first two coverage periods of the
20 last formed retrospective rating group are completed.

21 (3) Subsections (1) and (2) of this section do not prohibit a
22 sponsoring entity from proposing to:

23 (a) Divide an existing retrospective rating group into two or more
24 groups provided that the proposed new groups fall within the same
25 business or industry category as the group that is proposed to be
26 divided; or

27 (b) Merge existing retrospective rating groups into one business or
28 industry category provided that the proposed merged groups fall within
29 the same business or industry category as the groups that are proposed
30 to be merged.

31 (4) Under no circumstances may a sponsoring entity propose
32 retrospective rating groups in multiple business or industry categories
33 in the same application to the department.

34 (5) An insurer, insurance broker, agent, or solicitor may not:

35 (a) Participate in the formation of a retrospective rating group;
36 or

37 (b) Sponsor a retrospective rating group.

1 NEW SECTION.

2 **Sec. 5.**

3 (1) In order to ensure that all
4 retrospective rating groups are made up of employers who are
5 substantially similar, considering the services or activities performed
6 by the employees of those employers, the sponsoring entity of a
7 retrospective rating group shall select a single, broad industry or
8 business category for each retrospective rating group. Once an
9 industry or business category is selected, the department shall allow
10 all risk classifications reasonably related to that business or
11 industry category into that retrospective rating group.

12 (2) The following broad industry and business categories shall be
13 used by the sponsoring entity and the department in establishing
14 retrospective rating groups:

15 (a) Agriculture and related services;

16 (b) Automotive, truck and boat manufacturing, sales, repair, and
17 related services;

18 (c) Construction and related services;

19 (d) Distillation, chemical production, food, and related services;

20 (e) Facilities or property management, maintenance, and related
21 services;

22 (f) Government, utilities, schools, health care, and related
23 services;

24 (g) Health care, pharmaceutical, laboratories, and related
25 services;

26 (h) Logging, wood products manufacturing, and related services;

27 (i) Manufacturing, processing, mining, quarrying, and related
28 services;

29 (j) Retail stores, wholesale stores, professional services, and
30 related services;

31 (k) Temporary help and related services; and

32 (l) Transportation, recycling, warehousing, facility maintenance,
33 and related services.

34 (3) The industry and business categories in subsection (2) of this
35 section are not exclusive. In response to significant changes in
36 marketplace demographics or the discovery of unique business or
37 industry categories, the department may, by rule, include additional
38 broad industry or business category selections. The department may, by
39 rule, remove an industry covered within an industry or business
category in the event that the business or industry is no longer found
within this state.

1 (4) Given the broad nature of the industry and business categories
2 in subsection (2) of this section, the risk classification or
3 classifications assigned to an individual employer may appropriately
4 fall into multiple business or industry categories.

5 (5) In order to simplify administration and keep the administrative
6 costs associated with devising a different classification system for a
7 retrospective rating plan to a minimum, the state's retrospective
8 rating plan shall follow the same classification procedure established
9 by the department to assign workers' compensation insurance
10 classifications to an employer.

11 (6) Employers who have been a member of an existing, approved
12 retrospective rating group prior to the effective date of this act, may
13 continue in that group even if they are not substantially similar to
14 the industry or business category selected pursuant to subsection (1)
15 of this section. However, new employers proposed for addition to a
16 retrospective rating group on or after the effective date of this act
17 must fall within the selected industry or business category.

18 NEW SECTION. Sec. 6. (1) Any retrospective rating group required
19 to pay additional net premium assessments in two consecutive coverage
20 periods shall be immediately placed on probationary status. Once a
21 group is placed on probationary status, the department shall review the
22 group's workplace safety and accident prevention plan and its methods
23 for cooperation with department claims management activities.
24 Following the review, the department shall make recommendations for
25 corrective steps that may be taken to improve the group's performance.

26 (2) If the same retrospective rating group is required to pay an
27 additional net premium assessment in the third consecutive coverage
28 period, that group shall be denied future enrollment in the state's
29 retrospective rating plan. In addition, the sponsoring entity of the
30 failed group may not sponsor another group in the same business or
31 industry category for five coverage periods from the ending date of the
32 failed group's last coverage period.

33 (3) This section applies prospectively only and not retroactively.
34 It applies only to net assessments received by a retrospective rating
35 group for plan years beginning after the effective date of this act.

36 NEW SECTION. Sec. 7. All retrospective rating groups approved by
37 the department prior to the effective date of this act, under RCW

1 51.16.035 as it existed prior to the effective date of this act, remain
2 approved and, with the exception of section 3 of this act, are subject
3 to the provisions of this chapter.

4 **Sec. 8.** RCW 51.16.035 and 1989 c 49 s 1 are each amended to read
5 as follows:

6 (1) The department shall classify all occupations or industries in
7 accordance with their degree of hazard and fix therefor basic rates of
8 premium which shall be the lowest necessary to maintain actuarial
9 solvency of the accident and medical aid funds in accordance with
10 recognized insurance principles. The department shall formulate and
11 adopt rules and regulations governing the method of premium calculation
12 and collection and providing for a rating system consistent with
13 recognized principles of workers' compensation insurance which shall be
14 designed to stimulate and encourage accident prevention and to
15 facilitate collection. The department may annually, or at such other
16 times as it deems necessary to maintain solvency of the funds, readjust
17 rates in accordance with the rating system to become effective on such
18 dates as the department may designate.

19 ~~((The department may insure the workers' compensation obligations
20 of employers as a group if the following conditions are met:~~

21 ~~(1) All the employers in the group are members of an organization
22 that has been in existence for at least two years;~~

23 ~~(2) The organization was formed for a purpose other than that of
24 obtaining workers' compensation coverage;~~

25 ~~(3) The occupations or industries of the employers in the
26 organization are substantially similar, taking into consideration the
27 nature of the services being performed by workers of such employers;
28 and~~

29 ~~(4) The formation and operation of the group program in the
30 organization will substantially improve accident prevention and claim
31 management for the employers in the group.))~~

32 (2) In providing ~~((an employer group))~~ a retrospective rating plan
33 under ~~((this))~~ section 2 of this act, the department may consider ~~((an
34 employer))~~ each individual retrospective rating group as a single
35 employing entity for purposes of dividends or premium discounts.

36 NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act constitute
37 a new chapter in Title 51 RCW.

1 NEW SECTION. **Sec. 10.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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