

SENATE BILL REPORT

SB 5789

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, March 1, 2005

Title: An act relating to authorizing self-insurers to make claim decisions and actively participate in workers' compensation claims.

Brief Description: Expanding the role of self-insurers in the workers' compensation system.

Sponsors: Senators Prentice and Parlette.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/28/05, 3/1/05 [DPS].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5789 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Parlette, Ranking Minority Member; Brown, Keiser and Prentice.

Staff: Jennifer Strus (786-7316)

Background: Washington State requires most employers to provide workers' compensation coverage for their employees either through participation in the state fund or by being self-insured under RCW 51.14. An employer may be a self-insurer if it establishes to the Director of the Department of Labor and Industries (L&I) that it has sufficient financial ability to make its workers' compensation payments.

Self-insurers are closely monitored by L&I and, with some exceptions, do not have the ability to administer workers' compensation claims made by its workers.

Summary of Substitute Bill: The general rule that self-insured employers are vested with the powers and duties necessary to process many aspects of workers' compensation claims of their injured workers without prior approval or consent of L&I is established. The ability of injured workers, who receive workers' compensation benefits through a self-insurer, to protest and appeal their rights to L&I is maintained.

L&I has the authority to issue subpoenas for the self-insurers, upon request. Self-insurers have an obligation to report a summary of claims information to L&I every month to enable L&I to fulfill its audit responsibilities.

If the self-insurer does not act on a request to initiate a new claim within a specified period of time, the claim is automatically allowed. The self-insurer makes the decision about whether a pension should be granted to an injured worker, but all other aspects of administering a pension remain with L&I.

Self-insurers make the initial decision on whether or not vocational rehabilitation should be provided, but the L&I Director retains sole discretion to make final vocational rehabilitation decisions.

Self-insurers must report monthly to L&I on all claims filed or closed during the previous month as well as any information necessary to conduct audits of the self-insurer

An injured worker may request that L&I intervene with a self-insurer when the worker believes the self-insurer is not acting on a claim request. L&I can compel the self-insurer to issue an order on the worker's request.

L&I has the right to require a self-insurer to correct an error in a closed claim when an error is discovered in an audit up to two years after the claim is closed.

New penalties are created in addition to those currently in statute: a penalty up to \$2,500 for some violations, and for intentional and repeated violations, the penalty can be up to \$25,000. Further penalties are created for different levels of violations. The different levels are also established.

Substitute Bill Compared to Original Bill: Adds additional penalties and establishes funding for an ombudsman. The ombudsman is to act as an advocate for the injured worker.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The act takes effect on January 1, 2007 except for several sections which take effect on June 30, 2007.

Testimony For: Business and labor are currently negotiating the terms of the bill. The committee is encouraged to pass a vehicle out of the committee that includes a labor suggestion so that the parties can continue to work on the bill.

Testimony Against: None

Who Testified: PRO: Frank Prohaska, AWPPW; Bruce Beckett, Weyerhaeuser.