

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5992

59th Legislature
2005 Regular Session

Passed by the Senate April 18, 2005
YEAS 38 NAYS 0

President of the Senate

Passed by the House April 14, 2005
YEAS 96 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5992** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5992

AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Kohl-Welles and Parlette)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to the industrial injury second injury fund;
2 amending RCW 51.44.040; and creating a new section.

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

4 **Sec. 1.** RCW 51.44.040 and 1982 c 63 s 14 are each amended to read
5 as follows:

6 (1) There shall be in the office of the state treasurer, a fund to
7 be known and designated as the "second injury fund", which shall be
8 used only for the purpose of defraying charges against it as provided
9 in RCW 51.16.120 and 51.32.250(~~(, as now or hereafter amended. Said)~~).
10 The fund shall be administered by the director. The state treasurer
11 shall be the custodian of the second injury fund and shall be
12 authorized to disburse moneys from it only upon written order of the
13 director.

14 (2) Payments to the second injury fund from the accident fund shall
15 be made pursuant to rules (~~and regulations promulgated~~) adopted by
16 the director.

17 (3)(a) Assessments for the second injury fund shall be imposed on
18 self-insurers pursuant to rules (~~and regulations promulgated by the~~

1 ~~director to ensure that self-insurers shall pay to such fund))~~ adopted
2 by the director. Such rules shall provide for at least the following:

3 (i) Except as provided in (a)(ii) of this subsection, the amount
4 assessed each self-insurer must be in the proportion that the payments
5 made from ((such)) the fund on account of claims made against self-
6 insurers bears to the total sum of payments from ((such)) the fund.

7 (ii) Except as provided in section 2 of this act, beginning with
8 assessments imposed on or after July 1, 2009, the department shall
9 experience rate the amount assessed each self-insurer as long as the
10 aggregate amount assessed is in the proportion that the payments made
11 from the fund on account of claims made against self-insurers bears to
12 the total sum of payments from the fund. The experience rating factor
13 must provide equal weight to the ratio between expenditures made by the
14 second injury fund for claims of the self-insurer to the total
15 expenditures made by the second injury fund for claims of all self-
16 insurers for the prior three fiscal years and the ratio of workers'
17 compensation claim payments under this title made by the self-insurer
18 to the total worker's compensation claim payments made by all self-
19 insurers under this title for the prior three fiscal years. The
20 weighted average of these two ratios must be divided by the latter
21 ratio to arrive at the experience factor.

22 (b) For purposes of this subsection, "expenditures made by the
23 second injury fund" mean the costs and charges described under RCW
24 51.32.250 and 51.16.120 (3) and (4), and the amounts assessed to the
25 second injury fund as described under RCW 51.16.120(1). Under no
26 circumstances does "expenditures made by the second injury fund"
27 include any subsequent payments, assessments, or adjustments for
28 pensions, where the applicable second injury fund entitlement was
29 established outside of the three fiscal years.

30 NEW SECTION. Sec. 2. (1) If the outcome study conducted by the
31 department of labor and industries under subsection (2)(a)(i) or (ii)
32 of this section shows a negative impact of fifteen percent or more to
33 workers following claim closure among nonpension self-insured
34 claimants, 2005 c . . . s 1 (section 1 of this act) expires June 30,
35 2013.

36 (2) The department shall conduct an outcome study of the experience

1 rating system established in 2005 c . . . s 1 (section 1 of this act).

2 In conducting the study, the department must:

3 (a) Compare the outcomes for workers of self-insured employers
4 whose industrial insurance claims with temporary total disability
5 benefits for more than thirty days are closed between July 1, 2002, and
6 June 30, 2004, with similar claims of workers of self-insured employers
7 closed between July 1, 2009, and June 30, 2011. For the purposes of
8 subsection (1) of this section, the department must provide two
9 separate comparisons of such workers as follows: (i) The first
10 comparison includes the aggregate preinjury wages for all nonpension
11 injured workers compared with their aggregate wages at claim closure in
12 each of the two study groups; and (ii) the second comparison includes
13 the proportion of all nonpension injured workers who are found able to
14 work but have not returned to work, as reported by self-insurers in the
15 eligibility assessment reports submitted to the department on the
16 claims in the first study group, compared with the proportion of such
17 workers who are found able to work but have not returned to work, as
18 reported in the eligibility assessment reports submitted on claims in
19 the second study group;

20 (b) Study whether the workers potentially impacted by the
21 experience rating program have improved return-to-work outcomes,
22 whether the number of impacted workers found to be employable
23 increases, whether there is a change in long-term disability outcomes
24 among the impacted workers, and whether the number of permanent total
25 disability pensions among impacted workers is affected and, if so, the
26 nature of the impact; and

27 (c) Develop, in consultation with representatives of the impacted
28 workers and the self-insured community, a study methodology that must
29 be provided to the workers' compensation advisory committee for review
30 and comment. The study methodology must include appropriate controls
31 to account for economic fluctuation, wage inflation, and other
32 independent variables.

33 (3) The department must report to the appropriate committees of the
34 legislature by December 1, 2012, on the results of the study.

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