

SSB 5053 - H COMM AMD
By Committee on Commerce & Labor

ADOPTED AND ENGROSSED 4/4/07

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 51.14 RCW
4 to read as follows:

5 The office of the ombudsman for workers of industrial insurance
6 self-insured employers is created. The ombudsman shall be appointed by
7 the governor and report directly to the director of the department.
8 The office of the ombudsman may be openly and competitively contracted
9 by the governor in accordance with chapter 39.29 RCW but shall not be
10 physically housed within the industrial insurance division.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.14 RCW
12 to read as follows:

13 The person appointed ombudsman shall hold office for a term of six
14 years and shall continue to hold office until reappointed or until his
15 or her successor is appointed. The governor may remove the ombudsman
16 only for neglect of duty, misconduct, or inability to perform duties.
17 Any vacancy shall be filled by similar appointment for the remainder of
18 the unexpired term.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 51.14 RCW
20 to read as follows:

21 Any ombudsman appointed under this chapter shall have training or
22 experience, or both, in the following areas:

23 (1) Washington state industrial insurance including self-insurance
24 programs;

25 (2) The Washington state legal system;

26 (3) Dispute or problem resolution techniques, including
27 investigation, mediation, and negotiation.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.14 RCW
2 to read as follows:

3 During the first two years after the office of the ombudsman is
4 created, the staffing level shall be no more than four persons,
5 including the ombudsman and any administrative staff. Thereafter, the
6 staffing levels shall be determined based upon the office of the
7 ombudsman's workload and whether any additional locations are needed.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 51.14 RCW
9 to read as follows:

10 The office of the ombudsman shall have the following powers and
11 duties:

12 (1) To act as an advocate for injured workers of self-insured
13 employers;

14 (2) To offer and provide information on industrial insurance as
15 appropriate to workers of self-insured employers;

16 (3) To identify, investigate, and facilitate resolution of
17 industrial insurance complaints from workers of self-insured employers;

18 (4) To maintain a statewide toll-free telephone number for the
19 receipt of complaints and inquiries; and

20 (5) To refer complaints to the department when appropriate.

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 51.14 RCW
22 to read as follows:

23 (1) The office of the ombudsman shall develop referral procedures
24 for complaints by workers of self-insured employers. The department
25 shall act as quickly as possible on any complaint referred to them by
26 the office of the ombudsman.

27 (2) The department shall respond to any complaint against a
28 self-insured employer referred to it by the office of the ombudsman and
29 shall forward the office of the ombudsman a summary of the results of
30 the investigation and action proposed or taken.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 51.14 RCW
32 to read as follows:

33 (1) No ombudsman is liable for good faith performance of
34 responsibilities under this chapter.

1 (2) No discriminatory, disciplinary, or retaliatory action may be
2 taken against any employee of a self-insured employer for any
3 communication made, or information given or disclosed, to assist the
4 ombudsman in carrying out its duties and responsibilities, unless the
5 same was done maliciously. This subsection is not intended to infringe
6 on the rights of the employer to supervise, discipline, or terminate an
7 employee for other reasons.

8 (3) All communications by the ombudsman, if reasonably related to
9 the requirements of his or her responsibilities under this chapter and
10 done in good faith, are privileged and confidential, and this shall
11 serve as a defense to any action in libel or slander.

12 (4) Representatives of the office of the ombudsman are exempt from
13 being required to testify as to any privileged or confidential matters
14 except as the court may deem necessary to enforce this chapter.

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 51.14 RCW
16 to read as follows:

17 All records and files of the ombudsman relating to any complaint or
18 investigation made pursuant to carrying out its duties and the
19 identities of complainants, witnesses, or injured workers shall remain
20 confidential unless disclosure is authorized by the complainant or
21 injured worker or his or her guardian or legal representative. No
22 disclosures may be made outside the office of the ombudsman without the
23 consent of any named witness or complainant unless the disclosure is
24 made without the identity of any of these individuals being disclosed.

25 NEW SECTION. **Sec. 9.** A new section is added to chapter 51.14 RCW
26 to read as follows:

27 The ombudsman shall integrate into existing posters and brochures
28 information explaining the ombudsman program. Both the posters and the
29 brochures shall contain the ombudsman's toll-free telephone number.
30 Every self-insured employer must place a poster in an area where all
31 workers have access to it. The self-insured employer must provide a
32 brochure to all injured workers at the time the employer is notified of
33 the worker's injury.

34 NEW SECTION. **Sec. 10.** A new section is added to chapter 51.14 RCW
35 to read as follows:

1 (1) To provide start-up funding for the office of the ombudsman,
2 the department shall impose a one-time assessment on all self-insurers.
3 The amount of the assessment shall be determined by the department and
4 shall not exceed the amount needed to pay the start-up costs.

5 (2) Ongoing funding for the office of the ombudsman shall be
6 obtained as part of an annual administrative assessment of
7 self-insurers under RCW 51.44.150. This assessment shall be
8 proportionately based on the number of claims for each self-insurer
9 during the past year.

10 **Sec. 11.** RCW 51.44.150 and 1971 ex.s. c 289 s 59 are each amended
11 to read as follows:

12 The director shall impose and collect assessments each fiscal year
13 upon all self-insurers in the amount of the estimated costs of
14 administering their portion of this title during such fiscal year.
15 These assessments shall also include the assessments for the
16 ombudsman's office provided for in section 10 of this act. The time
17 and manner of imposing and collecting assessments due the department
18 shall be set forth in regulations promulgated by the director in
19 accordance with chapter 34.05 RCW.

20 NEW SECTION. **Sec. 12.** A new section is added to chapter 51.14 RCW
21 to read as follows:

22 (1) The ombudsman shall provide the governor with an annual report
23 that includes the following:

24 (a) A description of the issues addressed during the past year and
25 a very brief description of case scenarios in a form that does not
26 compromise confidentiality;

27 (b) An accounting of the monitoring activities by the ombudsman;
28 and

29 (c) An identification of the deficiencies in the industrial
30 insurance system related to self-insurers, if any, and recommendations
31 for remedial action in policy or practice.

32 (2) The first annual report shall be due on or before October 1,
33 2008. Subsequent reports shall be due on or before October 1st."

EFFECT: States that office of the ombudsman may be contracted by

the governor.

Corrects conflicting references to "office of the ombudsman,"
"office," and "ombudsman's office."

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