
Commerce & Labor Committee

HB 3061

Brief Description: Addressing claims of insolvent self-insurers under industrial insurance.

Sponsors: Representative Condotta.

Brief Summary of Bill

- Requires that the balance of a defaulted self-insured employer's surety must be transferred into the Insolvency Trust Fund when all claims against the employer are closed and the employer has been in default for 10 years.
- Provides that if a self-insured employer is in default or the Department of Labor and Industries has withdrawn its certification, the cost of claims which would otherwise be paid from the Second Injury Fund are instead assessed against the self-insured employer's surety and when the surety is insufficient, the Insolvency Trust Fund.

Hearing Date: 1/27/10

Staff: Joan Elgee (786-7106).

Background:

Employers must provide industrial insurance through the State Fund administered by the Department of Labor and Industries (Department) or, if qualified, may self-insure. Certain public entities (school districts, educational service districts, and public hospitals) may self-insure as groups.

To be certified by the Department as a self-insurer an employer must have sufficient financial ability to ensure prompt payment of compensation to its injured workers and must meet other requirements. The Department requires self-insurers to provide surety in an amount determined by the Department to cover the the self-insurer's industrial insurance liabilities. The surety can be cash, corporate or governmental securities, a bond, or a letter of credit. The Director of the Department (Director) may withdraw the certification of a self-insurer if the employer no longer

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meets the requirements of a self-insurer, the deposit is insufficient, or engages in other specified acts.

If a self-insurer defaults on any industrial insurance obligation, the Director may take steps to fulfill the defaulting employer's obligations from the surety deposit. If the surety is exhausted, costs are paid from a self-insurer's Insolvency Trust Fund. Private self-insured employers pay an assessment into the trust in proportion to their claim costs.

When an industrial injury results in death or a pension is awarded, a self-insured employer must pay into the Pension Reserve Fund (or provide a bond or annuity) for the costs of the injury. However, when death or permanent total disability is partially caused by a prior injury, pension costs resulting from the prior injury are paid by the Second Injury Fund. In all pension or death cases, the Department must evaluate whether payment should be made from the Second Injury Fund.

Summary of Bill:

If a self-insured employer is in default, the Department must transfer the balance of the employer's surety into the Insolvency Trust Fund when all claims against the self-insured employer are closed and the employer has been in default for 10 years.

If a self-insured employer is in default or the Director has withdrawn a self-insured employer's certification, the Department does not evaluate whether payment should be made from the Second Injury Fund in pension or death cases. Instead, in such cases the costs of the pension reserve must first be assessed against the self-insured employer's surety and where the surety is insufficient, the remaining cost must be assessed against the Insolvency Trust Fund.

Appropriation: None.

Fiscal Note: Requested on January 22, 2010.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.