
HOUSE BILL 3149

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By Representatives Chandler, Crouse, Ericksen, Bailey, Herrera, Haler, Kretz, Smith, Kristiansen, Nealey, Taylor, Hinkle, McCune, Schmick, Johnson, Ross, Pearson, Angel, Warnick, and Short

Read first time 01/28/10. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to industrial insurance; amending RCW 51.08.060,
2 51.08.040, 48.32.020, 51.04.020, 51.04.040, 51.04.070, 51.04.090,
3 51.04.100, 51.04.105, 51.04.130, 51.08.015, 51.12.035, 51.12.050,
4 51.12.070, 51.12.110, 51.12.120, 51.12.140, 51.12.170, 51.14.010,
5 51.14.050, 51.14.100, 51.14.300, 51.14.340, 51.14.350, 51.14.360,
6 51.14.380, 51.14.390, 51.14.400, 51.16.070, 51.16.120, 51.16.140,
7 51.16.150, 51.16.220, 51.24.030, 51.24.050, 51.24.060, 51.24.070,
8 51.24.080, 51.24.090, 51.28.010, 51.28.020, 51.28.025, 51.28.055,
9 51.28.080, 51.28.090, 51.32.055, 51.32.060, 51.32.067, 51.32.072,
10 51.32.073, 51.32.080, 51.32.098, 51.32.110, 51.32.112, 51.32.114,
11 51.32.135, 51.32.160, 51.32.185, 51.32.190, 51.32.195, 51.32.210,
12 51.32.215, 51.32.240, 51.32.242, 51.32.380, 51.36.010, 51.36.015,
13 51.36.020, 51.36.022, 51.36.040, 51.36.060, 51.36.070, 51.36.120,
14 51.36.140, 51.36.150, 51.44.040, 51.44.040, 51.44.070, 51.44.090,
15 51.44.100, 51.44.115, 51.48.010, 51.48.020, 51.48.030, 51.48.040,
16 51.48.050, 51.48.055, 51.48.060, 51.48.080, 51.48.090, 51.48.103,
17 51.48.250, 51.48.260, 51.52.030, 51.52.050, 51.52.070, 51.52.080,
18 51.52.100, 51.52.110, 51.52.115, 51.52.120, 51.52.130, 51.52.132, and
19 51.52.135; reenacting and amending RCW 51.52.060; adding new sections
20 to chapter 51.08 RCW; adding a new section to chapter 48.19 RCW; adding
21 new sections to chapter 51.44 RCW; adding a new section to chapter

1 51.16 RCW; adding new sections to chapter 51.28 RCW; adding a new
2 section to chapter 51.32 RCW; adding a new chapter to Title 51 RCW;
3 repealing RCW 51.04.030, 51.04.082, 51.04.085, 51.04.110, 51.04.120,
4 51.04.150, 51.08.175, 51.14.070, 51.16.035, 51.16.042, 51.16.060,
5 51.16.100, 51.16.105, 51.16.130, 51.16.155, 51.16.160, 51.16.170,
6 51.16.180, 51.16.190, 51.16.200, 51.18.005, 51.18.010, 51.18.020,
7 51.18.030, 51.18.040, 51.18.050, 51.18.060, 51.18.900, 51.36.080,
8 51.36.085, 51.36.090, 51.36.100, 51.36.110, 51.36.130, 51.44.010,
9 51.44.020, 51.44.030, 51.44.050, 51.44.060, 51.28.015, 51.32.300,
10 51.32.350, 51.32.360, 51.32.370, 51.48.075, 51.48.120, 51.48.131,
11 51.48.140, 51.48.150, 51.48.160, 51.48.170, 51.48.180, 51.48.190,
12 51.48.200, 51.48.210, 51.48.220, 51.48.230, 51.48.240, 51.48.290,
13 51.52.075, 51.52.150, and 51.52.800; and providing an effective date.

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

15 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.08 RCW
16 to read as follows:

17 "Industrial insurance benefits" means all compensation, monetary
18 benefits, and medical and related benefits provided under this title.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.08 RCW
20 to read as follows:

21 "Insurer" means:

22 (1) The state fund established in section 8 of this act;

23 (2) Any private company, corporation, mutual association, or
24 reciprocal or interinsurance exchange that meets the requirement of
25 section 15 of this act; or

26 (3) Any employer to whom a certificate of qualification to
27 self-insure has been issued under RCW 51.14.030.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 51.08 RCW
29 to read as follows:

30 "Reserve fund" means the self-insurance reserve fund established in
31 section 21 of this act.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.08 RCW
33 to read as follows:

1 "State fund" means the Washington state industrial insurance fund
2 as established in section 8 of this act.

3 **Sec. 5.** RCW 51.08.060 and 1961 c 23 s 51.08.060 are each amended
4 to read as follows:

5 (1) "Director" means the director of labor and industries.

6 (2) "Manager" means the manager of the state fund as established in
7 section 8 of this act.

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 51.08 RCW
9 to read as follows:

10 "Industrial insurance administrative fund" means the fund created
11 in section 16 of this act.

12 **Sec. 7.** RCW 51.08.040 and 1961 c 23 s 51.08.040 are each amended
13 to read as follows:

14 (1) "Commissioner" means the insurance commissioner as defined in
15 RCW 48.02.010.

16 (2) "Department" means ((~~department of labor and industries~~)) the
17 office of the insurance commissioner.

18 NEW SECTION. **Sec. 8.** (1) The Washington state industrial
19 insurance fund is established for the purpose of insuring employers for
20 their liability arising out of this title beginning July 1, 2012.

21 (2) The state fund may also insure a Washington employer who has
22 secured coverage with the state fund under this title for any other
23 liability the employer may have on account of bodily injury to an
24 employee arising out of and in the course of employment as fully as any
25 other insurer including, but not limited to, any liability for
26 compensation for injury or death under the longshoremen's and harbor
27 workers' compensation act, 33 U.S.C. Secs. 901 through 950, or any act
28 amendatory or supplementary thereto or in lieu thereof, and may enter
29 into any contract or obligation relating to the transaction of its
30 business which is permitted by law.

31 (3) The functions of the state fund are:

32 (a) To confer with and solicit employers and to handle, audit, and
33 enforce collection of premiums, assessments, and fees of employers
34 insured with it;

1 (b) To receive, handle, and process the claims of workers and
2 beneficiaries of workers injured in the employ of employers insured
3 with the state fund and to issue warrants for the payment of its
4 obligations; and

5 (c) To perform all other functions that the laws of this state
6 authorize an industrial insurance insurer to perform and that are
7 necessary or appropriate to carry out the functions authorized,
8 including securing reinsurance for any risk insured by the state fund.

9 (4) The state fund in its own name may sue and be sued in all
10 actions arising out of any act or omission in connection with its
11 business affairs, and is entitled to appear as a party in any
12 proceedings involving claims payable by the state fund under this
13 title.

14 (5) The state fund shall allocate revenues received from its
15 investments, other than revenues allocated for the payment of pensions,
16 to reduce the premiums for employers insured by the state fund and
17 shall apply, whenever possible, for a deviation as provided in section
18 14 of this act from manual rates filed by the licensed rating
19 organization so that its charges for industrial insurance are the
20 lowest possible rates necessary to maintain the actuarial solvency of
21 the state fund.

22 (6) The state fund shall participate in the Washington insurance
23 guaranty association under chapter 48.32 RCW in the same manner as any
24 other industrial insurance insurer.

25 (7) The state fund shall charge premiums in accordance with this
26 title and based on the rates filed by the licensed rating organization
27 and approved by the commissioner.

28 (8) The state fund shall participate in the assigned risk plan
29 under section 14 of this act.

30 (9) The state fund may acquire, lease, rent, own, and manage real
31 property. It may purchase, rent, lease, or otherwise acquire for its
32 use all supplies, materials, equipment, and services necessary to carry
33 out its functions. It may sell or otherwise dispose of any property
34 acquired under this subsection.

35 (10) The state fund shall pay all taxes and fees as any other
36 insurer meeting the requirements of section 15 of this act.

1 NEW SECTION. **Sec. 9.** (1) The state fund created in section 8 of
2 this act is governed by policies established by a board of five
3 directors appointed by the governor and approved by the senate. Each
4 member must be a policyholder of the state fund. Two of the members
5 must represent a business with twenty or fewer employees at the time of
6 appointment.

7 The initial terms of the board members are: One member serves for
8 two years, two members serve for four years, and two members serve for
9 six years. Thereafter, each member serves a term of six years. A
10 member may not serve more than two consecutive terms. A director holds
11 office until the appointment and qualification of a successor.

12 (2) The board of directors shall:

13 (a) Elect a chair from among its members to serve for the following
14 calendar year;

15 (b) Meet not less than monthly to consider and act on the affairs
16 of the state fund;

17 (c) Establish the policies for the operation of the state fund
18 consistent with all applicable provisions of law;

19 (d) Employ a manager to manage the daily operations of the state
20 fund; and

21 (e) Be reimbursed for all expenses in accordance with chapter 43.03
22 RCW.

23 (3) The manager is not a voting member of the board of directors
24 but shall act at the will of and in support of the board of directors
25 and provide staff support as required by the board of directors to
26 carry out its activities.

27 (4) A member of the board of directors may not have any pecuniary
28 interest, other than an incidental interest which is disclosed and made
29 a matter of public record at the time of appointment to the board, in
30 any corporation or other business entity doing business as an
31 industrial insurance insurer.

32 (5) A majority of the members of the board constitute a quorum for
33 the transaction of business.

34 NEW SECTION. **Sec. 10.** The state fund must be under the direct
35 supervision of a manager who is selected and employed at the discretion
36 of the board of directors. The salary of the manager is fixed by the
37 board of directors. The manager shall report at least annually to the

1 board of directors, the governor, and the legislature on the state of
2 the state fund and shall include in the report a review of its
3 operations for the previous twelve months.

4 NEW SECTION. **Sec. 11.** The assets and liabilities of the following
5 funds are transferred on July 1, 2012, to the state fund:

6 (1) The accident fund previously maintained under RCW 51.44.010
7 before July 1, 2012;

8 (2) The medical aid fund previously maintained under RCW 51.44.020
9 before July 1, 2012;

10 (3) The reserve fund previously maintained under RCW 51.44.030,
11 before July 1, 2012, except that portion attributable to self-insurers
12 pursuant to RCW 51.44.140 before July 1, 2012;

13 (4) All other assets and liabilities held by the industrial
14 insurance division of the department under this title on July 1, 2012,
15 except the supplemental pension fund and any other funds pertaining to
16 the regulatory functions of the department; and

17 (5) The equipment and fixtures used by the department on June 30,
18 2012, to administer insurance for the liability of employers under
19 Title 51 RCW, which must be transferred to the state fund without cost
20 to the state fund.

21 NEW SECTION. **Sec. 12.** (1) Effective July 1, 2012, all employers
22 required to pay industrial insurance benefits, medical aid, and
23 supplemental pension fees to the industrial insurance division of the
24 department under this title must become insureds of the state fund
25 until: (a) The employer elects to secure otherwise the payment of
26 industrial insurance benefits under this title; or (b) the employer
27 receives notice from the state fund of the termination or nonrenewal of
28 insurance.

29 (2) All liability accruing under the law in effect until July 1,
30 2012, for employers paying premiums to the industrial insurance
31 division of the department under this title is transferred on July 1,
32 2012, to the state fund, together with liabilities for all expenses,
33 claim costs, administrative costs, and all other obligations arising
34 out of the operations of the division and having accrued until July 1,
35 2012.

1 (3) The powers, duties, and functions of the industrial insurance
2 division relating to insurance coverage, actuarial computations, claims
3 management, premium collection, accounting, and all other powers
4 necessary to administer the state fund as an insurer, that are not
5 otherwise transferred by this chapter, are vested in the state fund as
6 of July 1, 2012.

7 NEW SECTION. **Sec. 13.** The state of Washington is not liable
8 beyond the assets of the state fund for any obligations of the state
9 fund. The state fund shall operate on a parity with other insurers,
10 other than self-insurers, and must be self-supporting and without
11 subsidy of any kind. The state fund has the authority to acquire any
12 equipment, supplies, or other personal or real property, and employ
13 personnel as may be reasonably necessary to solicit and provide
14 industrial insurance, and take all actions to enable it to be fully
15 competitive in offering industrial insurance. The state fund is
16 subject to the same regulation, examination, reporting requirements,
17 and disclosure as all other insurers other than self-insurers providing
18 insurance under this title.

19 All moneys received by and under the supervision and control of the
20 state fund must be deposited and maintained by the state fund.
21 Disbursements from the state fund for all the operating costs of the
22 fund and for payment of all claims obligations must be on authorization
23 of the manager or a duly authorized representative of the manager.

24 NEW SECTION. **Sec. 14.** A new section is added to chapter 48.19 RCW
25 to read as follows:

26 (1) For the purposes of this chapter, the term "industrial
27 insurance insurer" includes an insurer authorized to insure the
28 liabilities defined by Title 51 RCW and includes the state fund as
29 established by section 8 of this act, but does not include any
30 employer, or any other insurer authorized to provide insurance in this
31 state that insures a portion of the liability arising from this title
32 for an employer that is self-insured. However, chapter 48.22 RCW does
33 not apply to industrial insurance unless specified. When provisions of
34 this section conflict with other provisions of this title, the
35 provisions of this section control.

1 (2) The commissioner shall issue a certificate of authority to be
2 an industrial insurance insurer if the insurer meets the requirements
3 to be licensed to sell insurance in this state and meets the applicable
4 provisions of this title and Title 51 RCW. The commissioner shall
5 perform all duties required under this title to ensure that each
6 insurer continues to meet the requirements of the applicable provisions
7 of this title and Title 51 RCW.

8 (3) The commissioner shall designate a licensed rating organization
9 to file with the commissioner, for approval, a manual of
10 classifications and rules, rating plans, policy forms and provisions,
11 a payroll limitation, and a statistical reporting plan which provides
12 data adequate for rate making. Every insurer must be a member of the
13 licensed rating organization designated by the commissioner and must
14 adhere to the approved filings required by this section.

15 (4) The licensed rating organization on behalf of and in lieu of
16 filings by its members shall file manual rates with the commissioner
17 for approval. Any member of the rating organization may make written
18 application to the commissioner for approval of uniform percentage
19 deviations from the manual rates filed by the rating organization and
20 approved by the commissioner.

21 (5) The state fund is entitled to membership on any committee
22 established in this state by the rating organization.

23 (6) All manual rates filed by the rating organization are subject
24 to a payroll limitation approved by the commissioner which must be
25 adjusted annually by the percentage change in the state average annual
26 wage determined under RCW 50.04.355.

27 (7) The commissioner shall establish an assigned risk plan for all
28 industrial insurance insurers.

29 (8) This chapter does not prohibit or regulate the payment of
30 dividends and savings on unabsorbed premium deposits allowed or
31 returned by industrial insurance insurers to their policyholders,
32 members, or subscribers. A plan returned by insurers to their
33 policyholders, members, or subscribers is not a rating plan or system.

34 NEW SECTION. **Sec. 15.** (1) Each insurer offering to sell
35 industrial insurance meeting the requirements of this title, except for
36 employers that are self-insured, or insurers providing partial
37 reinsurance for a self-insurer, shall hold a certificate of authority

1 issued by the commissioner under chapter 48.05 RCW permitting it to
2 provide industrial insurance. Before issuing the certificate, the
3 commissioner shall certify that the insurer has the capacity to provide
4 adequate safety engineering, loss prevention, and claims management
5 services for all employers the insurer insures. Such a certificate is
6 not valid if the insurer fails to maintain a location within the state
7 where applications for industrial insurance benefits may be made and
8 maintain with the commissioner a list of the locations and telephone
9 numbers where information may be obtained about all appropriate matters
10 relating to claims.

11 (2) Each insurer may refuse to provide industrial insurance for up
12 to eight percent of employers who apply for insurance with the insurer
13 except that each insurer shall participate in the assigned risk plan as
14 provided in section 14 of this act. Any insurer failing to provide
15 insurance as required by the assigned risk plan is not permitted to
16 sell industrial insurance in this state.

17 (3) On the effective date of this section, the state fund must be
18 issued a certificate of authority from the commissioner. Thereafter,
19 the state fund is required to maintain the certificate and meet all of
20 the applicable provisions of Title 48 RCW and this title like any other
21 insurer.

22 NEW SECTION. **Sec. 16.** A new section is added to chapter 51.44 RCW
23 to read as follows:

24 A revolving fund to be known and designated as the industrial
25 insurance administrative fund is created in the custody of the state
26 treasurer. The commissioner is the administrator of the fund. The
27 industrial insurance administrative fund is established to provide for
28 the payment of all expenses of the board of industrial insurance
29 appeals, and the commissioner with respect to the administration of
30 their respective duties under this title and those sections of Title 48
31 RCW governing industrial insurance. Any money appropriated from the
32 general fund for the uses and purposes of the administrative fund must
33 be placed in the administrative fund. Only the commissioner or the
34 commissioner's designee may authorize expenditures from the fund. The
35 fund is subject to allotment procedures under chapter 43.88 RCW, but an
36 appropriation is not required for expenditures.

1 NEW SECTION. **Sec. 17.** A new section is added to chapter 51.44 RCW
2 to read as follows:

3 (1) The commissioner shall periodically calculate and collect from
4 insurers assessments that, with the interest earned, are sufficient to
5 cover the administrative costs described in sections 16 and 19 of this
6 act. The time and manner of collecting assessments must be set forth
7 in rules adopted by the commissioner under chapter 34.05 RCW.

8 (2) The commissioner shall prepare, as soon as is practicable after
9 July 1st each year, a line item budget for the industrial insurance
10 administrative fund for the succeeding fiscal year. The budget must
11 be based upon the actual expenditures of the preceding fiscal year and
12 a reasonable estimate of expenses for the succeeding year. This budget
13 must be adopted in accordance with chapter 34.05 RCW.

14 (3) The assessment of each insurer must be an amount bearing the
15 same ratio to the total administrative costs that each insurer's
16 adjusted premium bears to the aggregated adjusted premium of all
17 insurers. As used in this subsection "adjusted premium" means:

18 (a) For insurers, other than self-insurers, the direct earned
19 premium for industrial insurance under this title, determined under
20 uniform rules adopted by the commissioner; and

21 (b) For self-insurers, the premium that would have been incurred
22 had it insured its liability under this title with the state fund,
23 determined under uniform rules adopted by the commissioner.

24 (4) The assessment for each insurer must be calculated in the
25 following manner:

26 (a) The assessment for each insurer must be based on adjusted
27 premium for the period immediately preceding the period to which the
28 assessment will apply.

29 (b) The periodic assessment must be adjusted after each fiscal year
30 to reflect the actual adjusted premium of each insurer for that fiscal
31 year, as determined by the commissioner.

32 (c) Notwithstanding any provision of this section, each insurer may
33 be assessed annually a minimum amount not to exceed five hundred
34 dollars, as determined by the commissioner.

35 (d) As of July 1, 2013, assessments must be determined for insurers
36 on a fiscal year basis and collected annually, and (b) of this
37 subsection no longer applies.

1 (5) Assessments are payable in full within thirty days of the
2 notice of assessment. If any insurer fails to pay the assessment by
3 the date due, interest may be charged on all past due amounts at a
4 reasonable market rate as may be established from time to time.

5 (6) In no event may any assessment made under this section exceed
6 four percent per annum of the total taxable industrial insurance
7 premiums in this state for the year immediately preceding the
8 assessment.

9 (7) Any amount resulting from or anticipated for expenditures from
10 the industrial insurance administrative fund that arises from the
11 uncorrected default of a self-insurer must be assessed only upon
12 self-insurers.

13 NEW SECTION. **Sec. 18.** Insurers other than self-insurers may
14 insure the industrial insurance obligations of employers as a group if
15 the following conditions are met:

16 (1) All the employers in the group are members of an organization
17 that has been in existence for at least four years;

18 (2) The organization exists primarily for a purpose other than that
19 of obtaining or offering industrial insurance coverage or insurance-
20 related services;

21 (3) The group must be composed of employers who are substantially
22 similar considering the services or activities performed by the
23 employees of those employers; and

24 (4) The formation and operation of the group program in the
25 organization will substantially improve accident prevention and claim
26 management for the employers in the group.

27 NEW SECTION. **Sec. 19.** A new section is added to chapter 51.16 RCW
28 to read as follows:

29 It is a default whenever industrial insurance benefits due under
30 this title are not paid as required. Industrial insurance benefits due
31 must be paid as follows:

32 (1) When the default results from the failure of an employer to
33 secure the payment of industrial insurance benefits due under this
34 title, industrial insurance benefits must be paid by the commissioner
35 from the industrial insurance administrative fund. In addition to any
36 penalty imposed under RCW 51.48.010, the defaulting employer is liable

1 for payment into the industrial insurance administrative fund the
2 amounts paid therefrom by the commissioner plus market interest on any
3 outstanding balance. For the purpose of enforcing this liability, the
4 commissioner, for the benefit of the industrial insurance
5 administrative fund, is subrogated to all of the rights of the person
6 receiving the industrial insurance benefits;

7 (2) When the default results from the failure of a self-insurer to
8 make industrial insurance payments, industrial insurance benefits must
9 be paid by the commissioner from the industrial insurance
10 administrative fund only after the moneys available from the bonds or
11 other security provided under the requirements of this title have been
12 exhausted. The defaulting self-insurer is liable for payment into the
13 industrial insurance administrative fund the amounts paid therefrom by
14 the commissioner plus market interest on any unpaid balance. For the
15 purpose of enforcing this liability, the commissioner, for the benefit
16 of the industrial insurance administrative fund, is subrogated to all
17 of the rights of the person receiving the industrial insurance
18 benefits;

19 (3) When the default results from the failure of an insolvent
20 insurer as defined in RCW 48.32.030, to make industrial insurance
21 benefit payments, industrial insurance benefits must be paid by the
22 commissioner from the industrial insurance administrative fund. The
23 Washington insurance guaranty association, as defined by chapter 48.32
24 RCW, is liable for payment into the industrial insurance administrative
25 fund the amounts paid therefrom by the commissioner in lieu of paying
26 the amounts of industrial insurance benefits directly to the claimant;

27 (4) In cases other than those involving insurer insolvency when
28 industrial insurance benefits are not timely paid or where the payment
29 of industrial insurance benefits are delayed as a result of a dispute
30 as to which insurer is responsible for the payment of industrial
31 insurance benefits, the payments must be made from the industrial
32 insurance administrative fund and the commissioner has the right of
33 recovery from the party or parties ultimately deemed responsible for
34 the payment of the industrial insurance benefits; and

35 (5) The commissioner may purchase insurance for the industrial
36 insurance administrative fund to pay for defaults under this section.
37 The administrative fund must be used to pay for the insurance, and the
38 liability of insurers is limited to the liabilities not paid by the

1 insurance. The commissioner shall actively pursue legal action to
2 collect payments to the industrial insurance administrative fund as set
3 forth in this section.

4 NEW SECTION. **Sec. 20.** The accident and loss experience records
5 and related data of the division of industrial insurance, for periods
6 before the effective date of this section, must be made available to
7 the licensed rating organization designated by the commissioner under
8 section 14 of this act to assist in making workers' compensation rates.
9 The division of industrial insurance must be reimbursed for the actual
10 reasonable cost of reproduction and delivery of the records and data.

11 NEW SECTION. **Sec. 21.** A new section is added to chapter 51.44 RCW
12 to read as follows:

13 There is created in the office of the state treasurer a fund to be
14 known and designated as the self-insurance reserve fund. The portion
15 of the assets and liabilities of the reserve fund previously maintained
16 under RCW 51.44.030 attributable to self-insurers pursuant to RCW
17 51.44.140 shall be transferred to the self-insurance reserve fund on
18 July 1, 2012.

19 NEW SECTION. **Sec. 22.** A new section is added to chapter 51.28 RCW
20 to read as follows:

21 (1) The insurer shall notify the employer of an injured worker:

22 (a) Of its decision whether or not to pay industrial insurance
23 benefits for any application for industrial insurance benefits within
24 five days of making a decision;

25 (b) Each time the insurer makes a decision to pay industrial
26 insurance benefits pursuant to chapter 51.32 RCW; and

27 (c) At intervals not to exceed thirty calendar days of any medical
28 services approved or authorized under chapter 51.36 RCW.

29 (2) Each notice under this section must include an explanation, in
30 nontechnical language, of the potential impacts of the decision on the
31 industrial insurance rates of the employer and the employer's right to
32 appeal the decision. The sixty-day requirement to request
33 reconsideration or appeal a decision does not begin until the notice
34 has been sent to the employer.

1 (3) Failure of the insurer to provide the notice required by this
2 section prohibits the insurer from reporting against the employer's
3 experience on the benefits provided, but which the employer was not
4 notified about in accordance with this section.

5 NEW SECTION. **Sec. 23.** The exercise of the following functions
6 begin on the effective date of this section:

- 7 (1) Adoption of rules authorized by RCW 43.22.030 and 51.04.020;
- 8 (2) Filings authorized by section 14 of this act;
- 9 (3) Qualifications of insurers to write industrial insurance;
- 10 (4) Provision of statistical information;
- 11 (5) Computation of assessments, if any, payable after the effective
12 date of that section, and based upon estimated expenses of the
13 administrative fund and estimated assessments therefor;
- 14 (6) Section 20 of this act; and
- 15 (7) Appointment of a board of directors and the selection of a
16 manager of the state fund by the board, and permitting the board,
17 manager, and director to do all things necessary to establish the state
18 fund and prepare for the transfer of funds, functions, and personnel as
19 required by Title 51 RCW.

20 **Sec. 24.** RCW 48.32.020 and 2005 c 100 s 2 are each amended to read
21 as follows:

22 (1) This chapter applies to all kinds of direct insurance, except
23 life, title, surety, disability, credit, mortgage guaranty, ((workers+
24 compensation,)) and ocean marine. ((Workers' compensation as used in
25 this section does not include longshore and harbor workers'
26 compensation act insurance.))

27 (2) This chapter does not apply to an obligation of, nor create a
28 duty in, a self-insurer certified under RCW 51.14.030 or the state fund
29 created in section 8 of this act.

30 **Sec. 25.** RCW 51.04.020 and 2000 c 5 s 14 are each amended to read
31 as follows:

32 The ((director)) commissioner shall:
33 (1) Establish and adopt rules governing the administration of this
34 title;

1 ~~(2) ((Ascertain and establish the amounts to be paid into and out~~
2 ~~of the accident fund;~~

3 ~~(3))~~ Regulate the proof of accident and extent thereof, the proof
4 of death and the proof of relationship and the extent of dependency;

5 ~~((4) Supervise the))~~ (3) Establish and adopt rules governing
6 medical, surgical, and hospital treatment to the intent that it may be
7 in all cases efficient and up to the recognized standard of modern
8 surgery;

9 ~~((5) Issue proper receipts for moneys received and certificates~~
10 ~~for benefits accrued or accruing;~~

11 ~~(6))~~ (4) Regulate the claims handling practices of all insurers to
12 achieve prompt and fair claims services to injured workers and
13 beneficiaries;

14 (5) Investigate the cause of all serious injuries and report to the
15 governor from time to time any violations or laxity in performance of
16 protective statutes or regulations coming under the observation of the
17 department;

18 ~~((7))~~ (6) Compile statistics which will afford reliable
19 information upon which to base operations of all divisions under the
20 department;

21 ~~((8))~~ (7) Make an annual report to the governor of the workings
22 of the ~~((department))~~ industrial insurance division;

23 ~~((9))~~ (8) Be empowered to enter into agreements with the
24 appropriate agencies of other states relating to conflicts of
25 jurisdiction where the contract of employment is in one state and
26 injuries are received in the other state, and insofar as permitted by
27 the Constitution and laws of the United States, to enter into similar
28 agreements with the provinces of Canada; and

29 ~~((10))~~ (9) Designate a medical director who is licensed under
30 chapter 18.57 or 18.71 RCW.

31 **Sec. 26.** RCW 51.04.040 and 1987 c 316 s 1 are each amended to read
32 as follows:

33 The director and his or her authorized assistants shall have power
34 to issue subpoenas to enforce the attendance and testimony of witnesses
35 and the production and examination of books, papers, photographs,
36 tapes, and records before the department in connection with any claim
37 made ~~((to the department, any billing submitted to the department, or~~

1 ~~the assessment or collection of premiums))~~ under this title. The
2 superior court shall have the power to enforce any such subpoena by
3 proper proceedings.

4 **Sec. 27.** RCW 51.04.070 and 1980 c 14 s 2 are each amended to read
5 as follows:

6 A minor shall be deemed sui juris for the purpose of this title,
7 and no other person shall have any cause of action or right to
8 compensation for an injury to such minor worker, except as expressly
9 provided in this title, but in the event of any disability payments
10 becoming due under this title to a minor worker, under the age of
11 eighteen, such disability payments shall be paid to his or her parent,
12 guardian or other person having legal custody of his or her person
13 until he or she reaches the age of eighteen. Upon the submission of
14 written authorization by any such parent, guardian, or other person,
15 any such disability payments may be paid directly to such injured
16 worker under the age of eighteen years. If it is necessary to appoint
17 a legal guardian to receive such disability payments, there shall be
18 paid (~~from the accident fund or by the self-insurer, as the case may~~
19 ~~be,~~) by the insurer toward the expenses of such guardianship a sum not
20 to exceed three hundred dollars.

21 **Sec. 28.** RCW 51.04.090 and 1977 ex.s. c 350 s 5 are each amended
22 to read as follows:

23 If any employer shall be adjudicated to be outside the lawful scope
24 of this title, the title shall not apply to him or her or his or her
25 worker, or if any worker shall be adjudicated to be outside the lawful
26 scope of this title because of remoteness of his or her work from the
27 hazard of his or her employer's work, any such adjudication shall not
28 impair the validity of this title in other respects, and in every such
29 case an accounting in accordance with the justice of the case shall be
30 had of moneys received. If the provisions (~~for the creation of the~~
31 ~~accident fund, or the provisions))~~ of this title making the
32 compensation to the worker provided in it exclusive of any other remedy
33 on the part of the worker shall be held invalid the entire title shall
34 be thereby invalidated. In other respects an adjudication of
35 invalidity of any part of this title shall not affect the validity of
36 the title as a whole or any other part thereof.

1 **Sec. 29.** RCW 51.04.100 and 1977 ex.s. c 350 s 6 are each amended
2 to read as follows:

3 If the provisions of this title relative to compensation for
4 injuries to or death of workers become invalid because of any
5 adjudication, or be repealed, the period intervening between the
6 occurrence of an injury or death, not previously compensated for under
7 this title by lump payment or completed monthly payments, and such
8 repeal or the rendition of the final adjudication of invalidity shall
9 not be computed as a part of the time limited by law for the
10 commencement of any action relating to such injury or death: PROVIDED,
11 That such action be commenced within one year after such repeal or
12 adjudication; but in any such action any sum paid out (~~(of the accident~~
13 ~~fund)~~) to the worker on account of injury, to whom the action is
14 prosecuted, shall be taken into account or disposed of as follows: If
15 the defendant employer shall have paid without delinquency (~~(into the~~
16 ~~accident fund)~~) the payment provided by this title, such sums shall be
17 credited upon the recovery as payment thereon, otherwise the sum shall
18 not be so credited but shall be deducted from the sum collected and be
19 paid (~~(into the said fund)~~) to the source from which they had been
20 previously disbursed.

21 **Sec. 30.** RCW 51.04.105 and 1977 ex.s. c 323 s 25 are each amended
22 to read as follows:

23 The obligations of all medical aid contracts approved by the
24 supervisor prior to the repeal of any section of this title pertaining
25 to medical aid contracts shall continue until the expiration of such
26 contracts notwithstanding any such repeal and all provisions of this
27 title pertaining to the operation of medical aid contracts and the
28 control and supervision of such contracts which were in effect at the
29 time of such approval shall, notwithstanding any other provision of
30 law, remain in full force and effect. All medical aid contracts expire
31 June 30, 2012.

32 **Sec. 31.** RCW 51.04.130 and 1997 c 109 s 1 are each amended to read
33 as follows:

34 The department (~~(of labor and industries)~~) upon the request of the
35 secretary of defense of the United States or the secretary of the
36 United States department of energy, may in its discretion approve

1 special insuring agreements providing industrial insurance coverage for
2 workers engaged in the performance of work, either directly or
3 indirectly, for the United States, regarding projects and contracts at
4 the Hanford Nuclear Reservation. The agreements need not conform to
5 the requirements specified in the industrial insurance law of this
6 state if the department finds that the application of the plan will
7 effectively aid the national interest. The department may also approve
8 or direct changes or modifications of the agreements as it deems
9 necessary.

10 An agreement entered into under this section remains in full force
11 and effect for as long as the department deems it necessary to
12 accomplish the purposes of this section.

13 **Sec. 32.** RCW 51.08.015 and 1977 ex.s. c 350 s 9 are each amended
14 to read as follows:

15 Wherever and whenever in any of the provisions of this title
16 relating to any payments to the commissioner by an employer (~~(or)~~)
17 worker, or insurer the words "amount" and/or "amounts," "payment"
18 and/or "payments," (~~("premium" and/or "premiums,"~~) "contribution"
19 and/or "contributions," and "assessment" and/or "assessments" appear
20 said words shall be construed to mean taxes, which are the money
21 payments by an employer (~~(or)~~) worker, or insurer which are required
22 by this title to be made to the state treasury for the (~~(accident)~~)
23 industrial insurance administrative fund, (~~(the medical aid fund,~~) the
24 supplemental pension fund, the second injury fund, or any other fund
25 created by this title that is administered by the commissioner.

26 **Sec. 33.** RCW 51.12.035 and 2002 c 175 s 39 are each amended to
27 read as follows:

28 (1) Volunteers shall be deemed employees and/or workers, as the
29 case may be, for all purposes relating to medical aid benefits under
30 chapter 51.36 RCW.

31 A "volunteer" shall mean a person who performs any assigned or
32 authorized duties for the state or any agency thereof, except emergency
33 services workers as described by chapter 38.52 RCW, brought about by
34 one's own free choice, receives no wages, and is registered and
35 accepted as a volunteer by the state or any agency thereof, prior to
36 the occurrence of the injury or the contraction of an occupational

1 disease, for the purpose of engaging in authorized volunteer service:
2 PROVIDED, That such person shall be deemed to be a volunteer although
3 he or she may be granted maintenance and reimbursement for actual
4 expenses necessarily incurred in performing his or her assigned or
5 authorized duties.

6 Any and all premiums or assessments due under this title on account
7 of such volunteer service shall be the obligation of and be paid by the
8 state or any agency thereof which has registered and accepted the
9 services of volunteers.

10 (2) Except as provided in RCW 51.12.050, volunteers may be deemed
11 employees and/or workers, as the case may be, for all purposes relating
12 to medical aid benefits under chapter 51.36 RCW at the option of any
13 city, county, town, special district, municipal corporation, or
14 political subdivision of any type, or any private nonprofit charitable
15 organization, when any such unit of local government or any such
16 nonprofit organization has given notice of covering all of its
17 volunteers to the (~~director~~) insurer prior to the occurrence of the
18 injury or contraction of an occupational disease.

19 A "volunteer" shall mean a person who performs any assigned or
20 authorized duties for any such unit of local government, or any such
21 organization, except emergency services workers as described by chapter
22 38.52 RCW, or firefighters covered by chapter 41.24 RCW, brought about
23 by one's own free choice, receives no wages, and is registered and
24 accepted as a volunteer by any such unit of local government, or any
25 such organization which has given such notice, for the purpose of
26 engaging in authorized volunteer services: PROVIDED, That such person
27 shall be deemed to be a volunteer although he or she may be granted
28 maintenance and reimbursement for actual expenses necessarily incurred
29 in performing his or her assigned or authorized duties: PROVIDED
30 FURTHER, That juveniles performing community restitution under chapter
31 13.40 RCW may not be granted coverage as volunteers under this section.

32 Any and all premiums or assessments due under this title on account
33 of such volunteer service for any such unit of local government, or any
34 such organization shall be the obligation of and be paid by such
35 organization which has registered and accepted the services of
36 volunteers and exercised its option to secure the medical aid benefits
37 under chapter 51.36 RCW for such volunteers.

1 **Sec. 34.** RCW 51.12.050 and 2001 c 138 s 2 are each amended to read
2 as follows:

3 (1) Whenever a public entity engages in any work, or let a contract
4 therefor, in which workers are employed for wages, this title shall be
5 applicable thereto. The employer's payments (~~((into the accident fund))~~)
6 of premiums shall be made from the treasury of the public entity. If
7 the work is being done by contract, the payroll of the contractor and
8 the subcontractor shall be the basis of computation and, in the case of
9 contract work consuming less than one year in performance, the required
10 payment (~~((into the accident fund))~~) of premiums shall be based upon the
11 total payroll. The contractor and any subcontractor shall be subject
12 to the provisions of this title, and the state for its general fund,
13 the county, municipal corporation, or other taxing district shall be
14 entitled to collect from the contractor the full amount payable (~~((to~~
15 ~~the accident fund))~~) of premiums and the contractor, in turn, shall be
16 entitled to collect from the subcontractor his or her proportionate
17 amount of the payment.

18 (2)(a) A public entity may seek partnerships with volunteer groups
19 and businesses to engage in community improvement projects to benefit
20 the public entity. In administering a project, the public entity must:

21 (i) Provide prospective donors and participants written notice of
22 the risks and responsibilities to be assumed by the public entity and
23 the donors or participants. A volunteer donating labor on the project
24 must, before beginning work, document in writing that he or she has
25 received the notice and that he or she is donating labor as a result of
26 his or her own free choice; and

27 (ii) Pay premiums and assessments required under this title to
28 secure medical aid benefits under chapter 51.36 RCW for volunteers
29 donating labor on the project.

30 (b) A contractor or employer donating equipment or materials for
31 use on a community improvement project shall not, for the purposes of
32 this title, be considered the employer of an individual donating labor
33 unless the contractor or employer pays the individual wages for working
34 on the project or makes working on the project a condition of
35 employment. This subsection applies regardless of whether:

36 (i) The contractor or employer informs the individual about the
37 community improvement project or encourages the individual to donate
38 labor on the project;

1 (ii) The individual uses equipment or materials on the project that
2 are donated by the contractor or the individual's employer; or

3 (iii) The individual is granted maintenance or reimbursement for
4 actual expenses necessarily incurred in performing labor for the
5 project.

6 (3) Whenever and so long as, by state law, city charter, or
7 municipal ordinance, provision is made for employees or peace officers
8 injured in the course of employment, such employees shall not be
9 entitled to the benefits of this title and shall not be included in the
10 payroll of the municipality under this title: PROVIDED, That whenever
11 any state law, city charter, or municipal ordinance only provides for
12 payment to the employee of the difference between his or her actual
13 wages and that received under this title such employees shall be
14 entitled to the benefits of this title and may be included in the
15 payroll of the municipality.

16 (4) The definitions in this subsection apply throughout this
17 section, unless the context clearly requires otherwise.

18 (a) "Community improvement project" means a project sponsored by a
19 public entity that uses donated labor, materials, or equipment and
20 includes, but is not limited to, projects to repair, restore, or
21 preserve historic property.

22 (b) "Historic property" means real property owned by a public
23 entity including, but not limited to, barns, schools, military
24 structures, and cemeteries.

25 (c) "Public entity" means the state, county, any municipal
26 corporation, or other taxing district.

27 **Sec. 35.** RCW 51.12.070 and 2004 c 243 s 2 are each amended to read
28 as follows:

29 The provisions of this title apply to all work done by contract;
30 the person, firm, or corporation who lets a contract for such work is
31 responsible primarily and directly for all premiums upon the work. The
32 contractor and any subcontractor are subject to the provisions of this
33 title and the person, firm, or corporation letting the contract is
34 entitled to collect from the contractor the full amount payable in
35 premiums and the contractor in turn is entitled to collect from the
36 subcontractor his or her proportionate amount of the payment.

1 For the purposes of this section, a contractor registered under
2 chapter 18.27 RCW or licensed under chapter 19.28 RCW is not
3 responsible for any premiums upon the work of any subcontractor if:

4 (1) The subcontractor is currently engaging in a business which is
5 registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

6 (2) The subcontractor has a principal place of business which would
7 be eligible for a business deduction for internal revenue service tax
8 purposes other than that furnished by the contractor for which the
9 business has contracted to furnish services;

10 (3) The subcontractor maintains a separate set of books or records
11 that reflect all items of income and expenses of the business;

12 (4) The subcontractor has contracted to perform:

13 (a) The work of a contractor as defined in RCW 18.27.010; or

14 (b) The work of installing wires or equipment to convey electric
15 current or installing apparatus to be operated by such current as it
16 pertains to the electrical industry as described in chapter 19.28 RCW;
17 and

18 (5) The subcontractor has an industrial insurance account in good
19 standing with ~~((the department or is a self-insurer))~~ an insurer. For
20 the purposes of this subsection, a contractor may consider a
21 subcontractor's account to be in good standing if, within a year prior
22 to letting the contract or master service agreement, and at least once
23 a year thereafter, the contractor has verified with the department that
24 the account is in good standing and the contractor has not received
25 written notice from the department that the subcontractor's account
26 status has changed. Acceptable documentation of verification includes
27 a department document which includes an issued date or a dated printout
28 of information from the department's internet web site showing a
29 subcontractor's good standing. The department shall develop an
30 approach to provide contractors with verification of the date of
31 inquiries validating that the subcontractor's account is in good
32 standing.

33 It is unlawful for any county, city, or town to issue a
34 construction building permit to any person who has not submitted ~~((to
35 the department an estimate of payroll and paid premium thereon as
36 provided by chapter 51.16 RCW of this title or proof of qualification
37 as a self-insurer))~~ proof that the person has secured the payment of
38 industrial insurance benefits under this title.

1 **Sec. 36.** RCW 51.12.110 and 1991 c 246 s 5 are each amended to read
2 as follows:

3 Any employer who has in his or her employment any person or persons
4 excluded from mandatory coverage pursuant to RCW 51.12.020 may file
5 notice in writing with the director and the insurer, on such forms as
6 the department may provide, of his or her election to make such persons
7 otherwise excluded subject to this title. The employer shall forthwith
8 display in a conspicuous manner about his or her works, and in a
9 sufficient number of places to reasonably inform his or her workers of
10 the fact, printed notices furnished by the ~~((department))~~ insurer
11 stating that he or she has so elected. ~~((Said))~~ The election shall
12 become effective upon the filing of ~~((said))~~ notice in writing. The
13 employer and his or her workers shall be subject to all the provisions
14 of this title and entitled to all of the benefits thereof: PROVIDED,
15 That those who have heretofore complied with the foregoing conditions
16 and are carried and considered ~~((by the department))~~ as within the
17 purview of this title shall be deemed and considered as having fully
18 complied with its terms and shall be continued ~~((by the department))~~ as
19 entitled to all of the benefits and subject to all of the liabilities
20 without other or further action. Any employer who has complied with
21 this section may withdraw his or her acceptance of liability under this
22 title by filing written notice with the director and the insurer of the
23 withdrawal of his or her acceptance. Such withdrawal shall become
24 effective thirty days after the filing of such notice or on the date of
25 the termination of the security for payment of compensation, whichever
26 last occurs. The employer shall, at least thirty days before the
27 effective date of the withdrawal, post reasonable notice of such
28 withdrawal where the affected worker or workers work and shall
29 otherwise notify personally the affected workers. Withdrawal of
30 acceptance of this title shall not affect the liability of the
31 ~~((department or self-))~~insurer for compensation for any injury
32 occurring during the period of acceptance.

33 The ~~((department))~~ insurer shall have the power to cancel the
34 elective adoption coverage if any required payments or reports have not
35 been made. Cancellation ~~((by the department))~~ shall be no later than
36 thirty days from the date of notice in writing ~~((by the department))~~
37 advising of cancellation being made.

1 **Sec. 37.** RCW 51.12.120 and 2008 c 88 s 1 are each amended to read
2 as follows:

3 (1) If a worker, while working outside the territorial limits of
4 this state, suffers an injury on account of which he or she, or his or
5 her beneficiaries, would have been entitled to compensation under this
6 title had the injury occurred within this state, the worker, or his or
7 her beneficiaries, shall be entitled to compensation under this title
8 if at the time of the injury:

9 (a) His or her employment is principally localized in this state;
10 or

11 (b) He or she is working under a contract of hire made in this
12 state for employment not principally localized in any state; or

13 (c) He or she is working under a contract of hire made in this
14 state for employment principally localized in another state whose
15 workers' compensation law is not applicable to his or her employer; or

16 (d) He or she is working under a contract of hire made in this
17 state for employment outside the United States and Canada.

18 (2) The payment or award of compensation or other recoveries,
19 including settlement proceeds, under the workers' compensation law of
20 another state, territory, province, or foreign nation to a worker or
21 his or her beneficiaries otherwise entitled on account of such injury
22 to compensation under this title shall not be a bar to a claim for
23 compensation under this title if that claim under this title is timely
24 filed. If compensation is paid or awarded under this title, the total
25 amount of compensation or other recoveries, including settlement
26 proceeds, paid or awarded the worker or beneficiary under such other
27 workers' compensation law shall be credited against the compensation
28 due the worker or beneficiary under this title.

29 (3)(a) An employer not domiciled in this state who is employing
30 workers in this state in work for which the employer must be registered
31 under chapter 18.27 RCW or licensed under chapter 19.28 RCW, or
32 prequalified under RCW 47.28.070, must secure the payment of
33 (~~compensation~~) industrial insurance benefits under this title (~~by~~

34 ~~(i) Insuring the employer's workers' compensation obligation under~~
35 ~~this title with the department;~~

36 ~~(ii) Being qualified as a self-insurer under this title; or~~

37 ~~(iii)).~~ For employers domiciled in a state or province of Canada
38 subject to an agreement entered into under subsection (7) of this

1 section, as permitted by the agreement, filing with the department a
2 certificate of coverage issued by the agency that administers the
3 workers' compensation law in the employer's state or province of
4 domicile certifying that the employer has secured the payment of
5 compensation under the other state's or province's workers'
6 compensation law.

7 (b) The department shall adopt rules to implement this subsection.

8 (4) If a worker or beneficiary is entitled to compensation under
9 this title by reason of an injury sustained in this state while in the
10 employ of an employer who is domiciled in another state or province of
11 Canada and the employer:

12 (a) Is not subject to subsection (3) of this section and has
13 (~~neither opened an account with the department nor qualified as a~~
14 ~~self-insurer~~) not secured the payment of industrial insurance benefits
15 under this title, the employer or his or her insurance carrier shall
16 file with the director a certificate issued by the agency that
17 administers the workers' compensation law in the state of the
18 employer's domicile, certifying that the employer has secured the
19 payment of compensation under the workers' compensation law of the
20 other state and that with respect to the injury the worker or
21 beneficiary is entitled to the benefits provided under the other
22 state's law.

23 (b) Has filed a certificate under subsection (3)(a)(~~(iii)~~) of
24 this section or (a) of this subsection (4):

25 (i) The filing of the certificate constitutes appointment by the
26 employer or his or her insurance carrier of the director as its agent
27 for acceptance of the service of process in any proceeding brought by
28 any claimant to enforce rights under this title;

29 (ii) The director shall send to such employer or his or her
30 insurance carrier, by registered or certified mail to the address shown
31 on such certificate, a true copy of any notice of claim or other
32 process served on the director by the claimant in any proceeding
33 brought to enforce rights under this title;

34 (iii) If the employer is a self-insurer under the workers'
35 compensation law of the other state or province of Canada, the employer
36 shall, upon submission of evidence or security, satisfactory to the
37 director, of his or her ability to meet his or her liability to the

1 claimant under this title, be deemed to be a qualified self-insurer
2 under this title; and

3 (iv) If the employer's liability under the workers' compensation
4 law of the other state or province of Canada is insured:

5 (A) The employer's carrier, as to such claimant only, shall be
6 deemed to be subject to this title. However, unless the insurer's
7 contract with the employer requires the insurer to pay an amount
8 equivalent to the compensation benefits provided by this title, the
9 insurer's liability for compensation shall not exceed the insurer's
10 liability under the workers' compensation law of the other state or
11 province; and

12 (B) If the total amount for which the employer's insurer is liable
13 under (b)(iv)(A) of this subsection is less than the total of the
14 compensation to which the claimant is entitled under this title, the
15 director may require the employer to file security satisfactory to the
16 director to secure the payment of compensation under this title.

17 (c) If subject to subsection (3) of this section, has not complied
18 with subsection (3) of this section or, if not subject to subsection
19 (3) of this section, has neither qualified as a self-insurer nor
20 secured insurance coverage under the workers' compensation law of
21 another state or province of Canada, the claimant shall be paid
22 compensation by the department from the industrial insurance
23 administrative fund and the employer shall have the same rights and
24 obligations, and is subject to the same penalties, as other employers
25 subject to this title.

26 (5) As used in this section:

27 (a) A person's employment is principally localized in this or
28 another state when: (i) His or her employer has a place of business in
29 this or the other state and he or she regularly works at or from the
30 place of business; or (ii) if (a)(i) of this subsection is not
31 applicable, he or she is domiciled in and spends a substantial part of
32 his or her working time in the service of his or her employer in this
33 or the other state;

34 (b) "Workers' compensation law" includes "occupational disease law"
35 for the purposes of this section.

36 (6) A worker whose duties require him or her to travel regularly in
37 the service of his or her employer in this and one or more other states
38 may agree in writing with his or her employer that his or her

1 employment is principally localized in this or another state, and,
2 unless the other state refuses jurisdiction, the agreement shall govern
3 as to any injury occurring after the effective date of the agreement.

4 (7) The director is authorized to enter into agreements with the
5 appropriate agencies of other states and provinces of Canada that
6 administer their workers' compensation law with respect to conflicts of
7 jurisdiction and the assumption of jurisdiction in cases where the
8 contract of employment arises in one state or province and the injury
9 occurs in another. If the other state's or province's law requires
10 Washington employers to secure the payment of compensation under the
11 other state's or province's workers' compensation laws for work
12 performed in that state or province, then employers domiciled in that
13 state or province must purchase compensation covering their workers
14 engaged in that work in this state under this state's industrial
15 insurance law. When an agreement under this subsection has been
16 executed and adopted as a rule of the department under chapter 34.05
17 RCW, it binds all employers and workers subject to this title and the
18 jurisdiction of this title is governed by this rule.

19 (8) Washington employers who are not self-insured under chapter
20 51.14 RCW shall obtain workers' compensation coverage (~~(from the state~~
21 ~~fund))~~) for temporary and incidental work performed on jobs or at
22 jobsites in another state by their Washington workers. The department
23 is authorized to adopt rules governing premium liability and reporting
24 requirements for hours of work in excess of temporary and incidental as
25 defined in this chapter.

26 (9) "Temporary and incidental" means work performed by Washington
27 employers on jobs or at jobsites in another state for thirty or fewer
28 consecutive or nonconsecutive full or partial days within a calendar
29 year. Temporary and incidental days are considered on a per state
30 basis.

31 (10) By December 1, 2011, the department shall report to the
32 workers' compensation advisory committee on the effect of this section
33 on the revenue and costs to the state fund.

34 **Sec. 38.** RCW 51.12.140 and 1977 ex.s. c 113 s 1 are each amended
35 to read as follows:

36 (1) As used in this section:

1 (a) "Municipal corporation" means any city, town, or county
2 authorized by law to maintain and operate a law enforcement department;

3 (b) "Law enforcement department" means any regularly organized
4 police department, sheriff's department, department of public safety,
5 or other similar organization which has as its primary purpose the
6 enforcement of state or local penal laws and the preservation of public
7 order, which consists wholly of volunteer law enforcement officers or
8 a combination of volunteer and paid law enforcement officers, and which
9 is duly organized and maintained by a municipal corporation;

10 (c) "Volunteer law enforcement officer" means a person who is a
11 member of a law enforcement department and who (i) performs assigned or
12 authorized duties for the law enforcement department by his or her own
13 free choice; (ii) serves in a position that is not basically clerical
14 or secretarial in nature; (iii) is registered and accepted as a
15 volunteer by the law enforcement department; and (iv) receives no
16 monetary remuneration other than maintenance and reimbursement for
17 actual expenses necessarily incurred in performing assigned duties; and

18 (d) "Performance of duty" includes any work in and about the
19 volunteer law enforcement officers' quarters, police station, or any
20 other place under the direction or general orders of the officer having
21 the authority to order a volunteer law enforcement officer to perform
22 the work; providing law enforcement assistance; patrol; drill; and any
23 work of an emergency nature performed in accordance with the rules of
24 the law enforcement department.

25 (2) Any municipal corporation maintaining and operating a law
26 enforcement department may elect to provide coverage under this title
27 for all of its volunteer law enforcement officers for death or
28 disability occurring in the performance of their duties as volunteer
29 law enforcement officers. Any municipal corporation electing to
30 provide the coverage shall file a written notice of coverage with the
31 director.

32 (3) Coverage under this section shall be for all the applicable
33 death, disability, and medical aid benefits of this title and shall be
34 effective only for injuries which occur and occupational diseases which
35 are contracted after the notice of coverage has been filed with the
36 director.

37 Nothing in this subsection shall be construed to prohibit a

1 municipal corporation from covering its volunteer law enforcement
2 officers and other volunteers under RCW 51.12.035(2), as now or
3 hereafter amended, for medical aid benefits only.

4 (4) Volunteer law enforcement officers for whom municipal
5 corporations have given notice of coverage under this section shall be
6 deemed workers or employees, as the case may be, and the performance of
7 their duties shall be deemed employment or in the course of employment,
8 as the case may be, for all purposes of this title except where
9 expressly excluded or where the context clearly requires otherwise.

10 (5) All premiums, assessments, contributions, and penalties due
11 under this title because coverage is provided under this section shall
12 be the obligation of and be paid by the municipal corporation giving
13 the notice of coverage to the director.

14 (6) Any municipal corporation electing coverage under this section
15 shall maintain a time log in which the number of hours worked by each
16 of its volunteer law enforcement officers is recorded. The log shall
17 be made available for inspection upon the request of any authorized
18 employee of the department or the insurer of the municipal corporation.

19 (7) Any municipal corporation electing coverage under this section
20 may withdraw the coverage by filing a written notice of the withdrawal
21 with the ((~~director~~)) insurer. The withdrawal shall become effective
22 thirty days after filing the notice or on the date of the termination
23 of the security for payment of compensation, whichever occurs later.
24 At least thirty days before the effective date of the withdrawal, the
25 municipal corporation shall notify each of its volunteer law
26 enforcement officers of the withdrawal. Withdrawal of coverage under
27 this section shall not affect the liability of the ((~~department or~~
28 ~~self~~))insurer for compensation for any injury occurring during the
29 period in which coverage was provided.

30 **Sec. 39.** RCW 51.12.170 and 1994 c 246 s 1 are each amended to read
31 as follows:

32 (1) An employer covered under this title may elect to include
33 student volunteers as employees or workers for all purposes relating to
34 medical aid benefits under chapter 51.36 RCW. The employer shall give
35 notice of its intent to cover all of its student volunteers to the
36 ((~~director~~)) insurer prior to the occurrence of the injury or
37 contraction of an occupational disease.

1 (2) A student volunteer is an enrolled student in a public school
2 as defined in RCW 28A.150.010 who is participating as a volunteer under
3 a program authorized by the public school. The student volunteer shall
4 perform duties for the employer without wages. The student volunteer
5 shall be deemed to be a volunteer even if the student is granted
6 maintenance and reimbursement for actual expenses necessarily incurred
7 in performing his or her assigned or authorized duties. A person who
8 earns wages for the services performed is not a student volunteer.

9 (3) Any and all premiums or assessments due under this title on
10 account of service by a student volunteer shall be paid by the employer
11 who has registered and accepted the services of volunteers and has
12 exercised its option to secure the medical aid benefits under chapter
13 51.36 RCW for the student volunteers.

14 **Sec. 40.** RCW 51.14.010 and 1971 ex.s. c 289 s 26 are each amended
15 to read as follows:

16 Every employer under this title shall secure the payment of
17 compensation under this title by:

18 (1) Insuring and keeping insured the payment of such industrial
19 insurance benefits with the state fund; (~~(or)~~)

20 (2) Qualifying as a self-insurer under this title; or

21 (3) Insuring and keeping insured the payment of compensation with
22 any private insurer meeting the requirements of section 15 of this act.

23 **Sec. 41.** RCW 51.14.050 and 1971 ex.s. c 289 s 30 are each amended
24 to read as follows:

25 (1) Any employer may at any time terminate his or her status as a
26 self-insurer by giving the director written notice stating when, not
27 less than thirty days thereafter, such termination shall be effective,
28 provided such termination shall not be effective until the employer
29 either shall have ceased to be an employer or shall have filed with the
30 director (~~(for state industrial insurance coverage)~~) proof that he or
31 she has otherwise secured the payment of industrial insurance benefits
32 under this title.

33 (2) An employer who ceases to be a self-insurer, and who so files
34 with the director, must maintain money, securities, or surety bonds
35 deemed sufficient in the director's discretion to cover the entire
36 liability of such employer for injuries or occupational diseases to his

1 or her employees which occurred during the period of self-insurance:
2 PROVIDED, That the (~~director~~) employer's new insurer may agree (~~for~~
3 ~~the medical aid and accident funds~~) to assume the obligation of such
4 claims, in whole or in part, and shall adjust the employer's premium
5 rate without approval by the commissioner to provide for the payment of
6 such obligations on behalf of the employer.

7 **Sec. 42.** RCW 51.14.100 and 1971 ex.s. c 289 s 34 are each amended
8 to read as follows:

9 (1) Every employer subject to the provisions of this title shall
10 post and keep posted in a conspicuous place or places in and about his
11 or her place or places of business a reasonable number of typewritten
12 or printed notices of compliance substantially identical to a form
13 prescribed by the director, stating that such employer is subject to
14 the provisions of this title. Such notice shall advise (~~whether the~~
15 ~~employer is self-insured or has insured with the department~~) the
16 manner in which the employer has secured the payment of compensation,
17 and shall designate a person or persons on the premises to whom report
18 of injury shall be made and the name, telephone number, and exact
19 location within the state where application for compensation should be
20 made.

21 (2) Any employer who has failed to (~~open an account with the~~
22 ~~department or qualify as a self-insurer~~) secure payment of industrial
23 insurance benefits shall not post or permit to be posted on or about
24 his or her place of business or premises any notice of compliance with
25 this title and any willful violation of this subsection by any officer
26 or supervisory employee of an employer shall be a misdemeanor.

27 **Sec. 43.** RCW 51.14.300 and 2007 c 281 s 1 are each amended to read
28 as follows:

29 The office of the ombudsman for workers (~~of industrial insurance~~
30 ~~self-insured employers~~) is created. The ombudsman shall be appointed
31 by the governor and report directly to the director of the department.
32 The office of the ombudsman may be openly and competitively contracted
33 by the governor in accordance with chapter 39.29 RCW but shall not be
34 physically housed within the industrial insurance division.

1 **Sec. 44.** RCW 51.14.340 and 2007 c 281 s 5 are each amended to read
2 as follows:

3 The office of the ombudsman shall have the following powers and
4 duties:

5 (1) To act as an advocate for injured workers (~~(of self-insured~~
6 ~~employers))~~);

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

9 (3) To identify, investigate, and facilitate resolution of
10 industrial insurance complaints from workers (~~(of self-insured~~
11 ~~employers))~~);

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

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

15 **Sec. 45.** RCW 51.14.350 and 2007 c 281 s 6 are each amended to read
16 as follows:

17 (1) The office of the ombudsman shall develop referral procedures
18 for complaints by workers (~~(of self-insured employers))~~). The
19 department shall act as quickly as possible on any complaint referred
20 to them by the office of the ombudsman.

21 (2) The department shall respond to any complaint against (~~a~~
22 ~~self-insured employer~~) an insurer referred to it by the office of the
23 ombudsman and shall forward the office of the ombudsman a summary of
24 the results of the investigation and action proposed or taken.

25 **Sec. 46.** RCW 51.14.360 and 2007 c 281 s 7 are each amended to read
26 as follows:

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

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

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

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

8 **Sec. 47.** RCW 51.14.380 and 2007 c 281 s 9 are each amended to read
9 as follows:

10 The ombudsman shall integrate into existing posters and brochures
11 information explaining the ombudsman program. Both the posters and the
12 brochures shall contain the ombudsman's toll-free telephone number.
13 Every ((self-insured)) employer must place a poster in an area where
14 all workers have access to it. The ((self-insured)) employer must
15 provide a brochure to all injured workers at the time the employer is
16 notified of the worker's injury.

17 **Sec. 48.** RCW 51.14.390 and 2007 c 281 s 10 are each amended to
18 read as follows:

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

24 (2) Ongoing funding for the office of the ombudsman shall be
25 obtained as part of an annual administrative assessment ((of
26 self-insurers under RCW 51.44.150. This assessment shall be
27 proportionately based on the number of claims for each self-insurer
28 during the past year)).

29 **Sec. 49.** RCW 51.14.400 and 2007 c 281 s 12 are each amended to
30 read as follows:

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

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

1 (b) An accounting of the monitoring activities by the ombudsman;
2 and

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

6 (2) The first annual report shall be due on or before October 1,
7 2008. Subsequent reports shall be due on or before October 1st.

8 **Sec. 50.** RCW 51.16.070 and 2008 c 120 s 5 are each amended to read
9 as follows:

10 (1)(a) Every employer shall keep at his or her place of business a
11 record of his or her employment from which the information needed by
12 the department for the administration of this title may be obtained and
13 such record shall at all times be open to the inspection of the
14 director, (~~supervisor of industrial insurance, or the traveling~~
15 ~~auditors, agents,~~) or assistants of the department, as provided in RCW
16 51.48.040.

17 (b) An employer who contracts with another person or entity for
18 work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a
19 record of the unified business identifier account number for and the
20 compensation paid to the person or entity performing the work. Failure
21 to obtain or maintain the record is subject to RCW 39.06.010 and to a
22 penalty under RCW 51.48.030.

23 (2) Information obtained from employing unit records under the
24 provisions of this title shall be deemed confidential and shall not be
25 open to public inspection (other than to public employees, the insurer,
26 and the licensed rating organization in the performance of their
27 official duties), but any interested party shall be supplied with
28 information from such records to the extent necessary for the proper
29 presentation of the case in question: PROVIDED, That any employing
30 unit may authorize inspection of its records by written consent.

31 **Sec. 51.** RCW 51.16.120 and 2004 c 258 s 1 are each amended to read
32 as follows:

33 (1) Whenever a worker has a previous bodily disability from any
34 previous injury or disease, whether known or unknown to the employer,
35 and shall suffer a further disability from injury or occupational
36 disease in employment covered by this title and become totally and

1 permanently disabled from the combined effects thereof or die when
2 death was substantially accelerated by the combined effects thereof,
3 then the experience record of an insured employer (~~((insured with the~~
4 ~~state fund))~~) at the time of (~~(said))~~ the further injury or disease
5 shall be charged and a self-insured employer shall pay directly into
6 the (~~(reserve))~~ second injury fund only the accident cost which would
7 have resulted solely from (~~(said))~~ the further injury or disease, had
8 there been no preexisting disability, and which accident cost shall be
9 based upon an evaluation of the disability by medical experts. The
10 difference between the charge thus assessed to such employer at the
11 time of (~~(said))~~ the further injury or disease and the total cost of
12 the pension reserve shall be assessed against the second injury fund.
13 The department shall pass upon the application of this section in all
14 cases where benefits are paid for total permanent disability or death
15 and issue an order thereon appealable by the employer or insurer.
16 Pending outcome of such appeal the transfer or payment shall be made as
17 required by such order.

18 (2) (~~(The department shall,)~~) In cases of claims of workers
19 sustaining injuries or occupational diseases in the employ of (~~(state~~
20 ~~fund))~~ insured employers, (~~(recompute))~~ the experience record of such
21 employers shall be recomputed when the claims of workers injured in
22 their employ have been found to qualify for payments from the second
23 injury fund after the regular time for computation of such experience
24 records and the (~~(department may))~~ insurer shall make appropriate
25 adjustments in such cases including cash refunds or credits to such
26 employers.

27 (3) To encourage employment of injured workers who are not
28 reemployed by the employer at the time of injury, the department may
29 adopt rules providing for the reduction or elimination of premiums or
30 assessments from subsequent employers of such workers and may also
31 adopt rules for the reduction or elimination of charges against such
32 employers in the event of further injury to such workers in their
33 employ.

34 (4) To encourage employment of injured workers who have a
35 developmental disability as defined in RCW 71A.10.020, the department
36 may adopt rules providing for the reduction or elimination of premiums
37 or assessments from employers of such workers and may also adopt rules

1 for the reduction or elimination of charges against their employers in
2 the event of further injury to such workers in their employ.

3 **Sec. 52.** RCW 51.16.140 and 1989 c 385 s 3 are each amended to read
4 as follows:

5 ~~((1) Every employer who is not a self-insurer shall deduct from~~
6 ~~the pay of each of his or her workers one half of the amount he or she~~
7 ~~is required to pay, for medical benefits within each risk~~
8 ~~classification. Such amount shall be periodically determined by the~~
9 ~~director and reported by him or her to all employers under this title:~~
10 ~~PROVIDED, That the state governmental unit shall pay the entire amount~~
11 ~~into the medical aid fund for volunteers, as defined in RCW 51.12.035,~~
12 ~~and the state apprenticeship council shall pay the entire amount into~~
13 ~~the medical aid fund for registered apprentices or trainees, for the~~
14 ~~purposes of RCW 51.12.130. The deduction under this section is not~~
15 ~~authorized for premiums assessed under RCW 51.16.210.~~

16 ~~(2))~~ It shall be unlawful for the employer, unless specifically
17 authorized by this title, to deduct or obtain any part of the premium
18 or other costs required to be by him or her paid from the wages or
19 earnings of any of his or her workers, and the making of or attempt to
20 make any such deduction shall be a gross misdemeanor.

21 **Sec. 53.** RCW 51.16.150 and 1986 c 9 s 4 are each amended to read
22 as follows:

23 If any employer or insurer shall default in any payment to any fund
24 administered by the director, the sum due may be collected by action at
25 law in the name of the state as plaintiff, and such right of action
26 shall be in addition to any other right of action or remedy. If such
27 default occurs after demand, the director may require from the
28 defaulting employer or insurer a bond to the state for the benefit of
29 any fund, with surety to the director's satisfaction, in the penalty of
30 double the amount of the estimated payments which will be required from
31 such employer or insurer into the ~~((said))~~ funds for and during the
32 ensuing one year, together with any penalty or penalties incurred. In
33 case of refusal or failure after written demand personally served to
34 furnish such bond, the state shall be entitled to an injunction
35 restraining the delinquent from prosecuting an occupation or work until
36 such bond is furnished, and until all delinquent ~~((premiums))~~ payments,

1 penalties, interest and costs are paid, conditioned for the prompt and
2 punctual making of all payments into (~~said~~) the funds during such
3 periods, and any sale, transfer, or lease attempted to be made by such
4 delinquent during the period of any of the defaults herein mentioned,
5 of his or her works, plant, or lease thereto, shall be invalid until
6 all past delinquencies are made good, and such bond furnished.

7 **Sec. 54.** RCW 51.16.220 and 2005 c 422 s 1 are each amended to read
8 as follows:

9 (1) When a worker of a nongovernment employer is injured or
10 develops an occupational disease due to an exposure while assisting in
11 the life and rescue phase of an emergency, in response to a request for
12 assistance from a state or local government entity, including fire
13 service or law enforcement, the cost of benefits shall be reimbursed
14 from the disaster response account, RCW 38.52.105, to the appropriate
15 (~~workers' compensation fund, or to the self-insured employer, as the~~
16 ~~case may be. The cost of such injuries or occupational diseases shall~~
17 ~~not be charged to the experience record of a state fund employer~~)
18 insurer. An employer's premium shall not be affected by such a claim.

19 (2) For the purposes of this section, "life and rescue phase" means
20 the first seventy-two hours after the occurrence of a natural or man-
21 made disaster in which a state or municipal entity, including fire
22 service or law enforcement, acknowledges or declares such a disaster
23 and requests assistance from the private sector in locating and
24 rescuing survivors. The initial life and rescue phase may be extended
25 for a finite period of time by declaration of the state or municipal
26 entity requesting assistance.

27 **Sec. 55.** RCW 51.24.030 and 1995 c 199 s 2 are each amended to read
28 as follows:

29 (1) If a third person, not in a worker's same employ, is or may
30 become liable to pay damages on account of a worker's injury for which
31 benefits and compensation are provided under this title, the injured
32 worker or beneficiary may elect to seek damages from the third person.

33 (2) In every action brought under this section, the plaintiff shall
34 give notice to the (~~department or self-insurer~~) insurer when the
35 action is filed. The (~~department or self-insurer~~) insurer may file
36 a notice of statutory interest in recovery. When such notice has been

1 filed by the ((~~department or self-insurer~~)) insurer, the parties shall
2 thereafter serve copies of all notices, motions, pleadings, and other
3 process on the ((~~department or self-insurer~~)) insurer. The
4 ((~~department or self-insurer~~)) insurer may then intervene as a party in
5 the action to protect its statutory interest in recovery.

6 (3) For the purposes of this chapter, "injury" shall include any
7 physical or mental condition, disease, ailment or loss, including
8 death, for which compensation and benefits are paid or payable under
9 this title.

10 (4) Damages recoverable by a worker or beneficiary pursuant to the
11 underinsured motorist coverage of an insurance policy shall be subject
12 to this chapter only if the owner of the policy is the employer of the
13 injured worker.

14 (5) For the purposes of this chapter, "recovery" includes all
15 damages except loss of consortium.

16 **Sec. 56.** RCW 51.24.050 and 1995 c 199 s 3 are each amended to read
17 as follows:

18 (1) An election not to proceed against the third person operates as
19 an assignment of the cause of action to the ((~~department or self-~~
20 ~~insurer~~)) insurer, which may prosecute or compromise the action in its
21 discretion in the name of the injured worker, beneficiary or legal
22 representative.

23 (2) If an injury to a worker results in the worker's death, the
24 ((~~department or self-insurer~~)) insurer to which the cause of action has
25 been assigned may petition a court for the appointment of a special
26 personal representative for the limited purpose of maintaining an
27 action under this chapter and chapter 4.20 RCW.

28 (3) If a beneficiary is a minor child, an election not to proceed
29 against a third person on such beneficiary's cause of action may be
30 exercised by the beneficiary's legal custodian or guardian.

31 (4) Any recovery made by the ((~~department or self-insurer~~)) insurer
32 shall be distributed as follows:

33 (a) The ((~~department or self-insurer~~)) insurer shall be paid the
34 expenses incurred in making the recovery including reasonable costs of
35 legal services;

36 (b) The injured worker or beneficiary shall be paid twenty-five
37 percent of the balance of the recovery made, which shall not be subject

1 to subsection (5) of this section: PROVIDED, That in the event of a
2 compromise and settlement by the parties, the injured worker or
3 beneficiary may agree to a sum less than twenty-five percent;

4 (c) The ((~~department and/or self-insurer~~)) insurer shall be paid
5 the compensation and benefits paid to or on behalf of the injured
6 worker or beneficiary by the ((~~department and/or self-insurer~~))
7 insurer; and

8 (d) The injured worker or beneficiary shall be paid any remaining
9 balance.

10 (5) Thereafter no payment shall be made to or on behalf of a worker
11 or beneficiary by the ((~~department and/or self-insurer~~)) insurer for
12 such injury until the amount of any further compensation and benefits
13 shall equal any such remaining balance. Thereafter, such benefits
14 shall be paid by the ((~~department and/or self-insurer~~)) insurer to or
15 on behalf of the worker or beneficiary as though no recovery had been
16 made from a third person.

17 (6) When the cause of action has been assigned to the self-insurer
18 and compensation and benefits have been paid and/or are payable from
19 state funds for the same injury:

20 (a) The prosecution of such cause of action shall also be for the
21 benefit of the department to the extent of compensation and benefits
22 paid and payable from state funds;

23 (b) Any compromise or settlement of such cause of action which
24 results in less than the entitlement under this title is void unless
25 made with the written approval of the department;

26 (c) The department shall be reimbursed for compensation and
27 benefits paid from state funds;

28 (d) The department shall bear its proportionate share of the costs
29 and reasonable attorneys' fees incurred by the self-insurer in
30 obtaining the award or settlement; and

31 (e) Any remaining balance under subsection (4)(d) of this section
32 shall be applied, under subsection (5) of this section, to reduce the
33 obligations of the ((~~department and self-insurer~~)) insurer to pay
34 further compensation and benefits in proportion to which the
35 obligations of each bear to the remaining entitlement of the worker or
36 beneficiary.

1 **Sec. 57.** RCW 51.24.060 and 2001 c 146 s 9 are each amended to read
2 as follows:

3 (1) If the injured worker or beneficiary elects to seek damages
4 from the third person, any recovery made shall be distributed as
5 follows:

6 (a) The costs and reasonable attorneys' fees shall be paid
7 proportionately by the injured worker or beneficiary and the
8 (~~department and/or self-insurer~~) insurer: PROVIDED, That the
9 (~~department and/or self-insurer~~) insurer may require court approval
10 of costs and attorneys' fees or may petition a court for determination
11 of the reasonableness of costs and attorneys' fees;

12 (b) The injured worker or beneficiary shall be paid twenty-five
13 percent of the balance of the award: PROVIDED, That in the event of a
14 compromise and settlement by the parties, the injured worker or
15 beneficiary may agree to a sum less than twenty-five percent;

16 (c) The (~~department and/or self-insurer~~) insurer shall be paid
17 the balance of the recovery made, but only to the extent necessary to
18 reimburse the (~~department and/or self-insurer~~) insurer for benefits
19 paid;

20 (i) The (~~department and/or self-insurer~~) insurer shall bear its
21 proportionate share of the costs and reasonable attorneys' fees
22 incurred by the worker or beneficiary to the extent of the benefits
23 paid under this title: PROVIDED, That the (~~department's and/or self-~~
24 ~~insurer's~~) insurer's proportionate share shall not exceed one hundred
25 percent of the costs and reasonable attorneys' fees;

26 (ii) The (~~department's and/or self-insurer's~~) insurer's
27 proportionate share of the costs and reasonable attorneys' fees shall
28 be determined by dividing the gross recovery amount into the benefits
29 paid amount and multiplying this percentage times the costs and
30 reasonable attorneys' fees incurred by the worker or beneficiary;

31 (iii) The (~~department's and/or self-insurer's~~) insurer's
32 reimbursement share shall be determined by subtracting their
33 proportionate share of the costs and reasonable attorneys' fees from
34 the benefits paid amount;

35 (d) Any remaining balance shall be paid to the injured worker or
36 beneficiary; and

37 (e) Thereafter no payment shall be made to or on behalf of a worker
38 or beneficiary by the (~~department and/or self-insurer~~) insurer for

1 such injury until the amount of any further compensation and benefits
2 shall equal any such remaining balance minus the (~~department's and/or~~
3 ~~self-insurer's~~) insurer's proportionate share of the costs and
4 reasonable attorneys' fees in regards to the remaining balance. This
5 proportionate share shall be determined by dividing the gross recovery
6 amount into the remaining balance amount and multiplying this
7 percentage times the costs and reasonable attorneys' fees incurred by
8 the worker or beneficiary. Thereafter, such benefits shall be paid by
9 the (~~department and/or self-insurer~~) insurer to or on behalf of the
10 worker or beneficiary as though no recovery had been made from a third
11 person.

12 (2) The recovery made shall be subject to a lien by the
13 (~~department and/or self-insurer~~) insurer for its share under this
14 section.

15 (3) The (~~department or self-insurer~~) insurer has sole discretion
16 to compromise the amount of its lien. In deciding whether or to what
17 extent to compromise its lien, the (~~department or self-insurer~~)
18 insurer shall consider at least the following:

19 (a) The likelihood of collection of the award or settlement as may
20 be affected by insurance coverage, solvency, or other factors relating
21 to the third person;

22 (b) Factual and legal issues of liability as between the injured
23 worker or beneficiary and the third person. Such issues include but
24 are not limited to possible contributory negligence and novel theories
25 of liability; and

26 (c) Problems of proof faced in obtaining the award or settlement.

27 (4) In an action under this section, the self-insurer may act on
28 behalf and for the benefit of the department to the extent of any
29 compensation and benefits paid or payable from state funds.

30 (5) It shall be the duty of the person to whom any recovery is paid
31 before distribution under this section to advise the (~~department or~~
32 ~~self-insurer~~) insurer of the fact and amount of such recovery, the
33 costs and reasonable attorneys' fees associated with the recovery, and
34 to distribute the recovery in compliance with this section.

35 (~~(6) The distribution of any recovery made by award or settlement~~
36 ~~of the third party action shall be confirmed by department order,~~
37 ~~served by registered or certified mail, and shall be subject to chapter~~
38 ~~51.52 RCW. In the event the order of distribution becomes final under~~

1 ~~chapter 51.52 RCW, the director or the director's designee may file~~
2 ~~with the clerk of any county within the state a warrant in the amount~~
3 ~~of the sum representing the unpaid lien plus interest accruing from the~~
4 ~~date the order became final. The clerk of the county in which the~~
5 ~~warrant is filed shall immediately designate a superior court cause~~
6 ~~number for such warrant and the clerk shall cause to be entered in the~~
7 ~~judgment docket under the superior court cause number assigned to the~~
8 ~~warrant, the name of such worker or beneficiary mentioned in the~~
9 ~~warrant, the amount of the unpaid lien plus interest accrued and the~~
10 ~~date when the warrant was filed. The amount of such warrant as~~
11 ~~docketed shall become a lien upon the title to and interest in all real~~
12 ~~and personal property of the injured worker or beneficiary against whom~~
13 ~~the warrant is issued, the same as a judgment in a civil case docketed~~
14 ~~in the office of such clerk. The sheriff shall then proceed in the~~
15 ~~same manner and with like effect as prescribed by law with respect to~~
16 ~~execution or other process issued against rights or property upon~~
17 ~~judgment in the superior court. Such warrant so docketed shall be~~
18 ~~sufficient to support the issuance of writs of garnishment in favor of~~
19 ~~the department in the manner provided by law in the case of judgment,~~
20 ~~wholly or partially unsatisfied. The clerk of the court shall be~~
21 ~~entitled to a filing fee under RCW 36.18.012(10), which shall be added~~
22 ~~to the amount of the warrant. A copy of such warrant shall be mailed~~
23 ~~to the injured worker or beneficiary within three days of filing with~~
24 ~~the clerk.~~

25 ~~(7) The director, or the director's designee, may issue to any~~
26 ~~person, firm, corporation, municipal corporation, political subdivision~~
27 ~~of the state, public corporation, or agency of the state, a notice and~~
28 ~~order to withhold and deliver property of any kind if he or she has~~
29 ~~reason to believe that there is in the possession of such person, firm,~~
30 ~~corporation, municipal corporation, political subdivision of the state,~~
31 ~~public corporation, or agency of the state, property which is due,~~
32 ~~owing, or belonging to any worker or beneficiary upon whom a warrant~~
33 ~~has been served by the department for payments due to the state fund.~~
34 ~~The notice and order to withhold and deliver shall be served by the~~
35 ~~sheriff of the county or by the sheriff's deputy; by certified mail,~~
36 ~~return receipt requested; or by any authorized representatives of the~~
37 ~~director. Any person, firm, corporation, municipal corporation,~~
38 ~~political subdivision of the state, public corporation, or agency of~~

1 the state upon whom service has been made shall answer the notice
2 within twenty days exclusive of the day of service, under oath and in
3 writing, and shall make true answers to the matters inquired of in the
4 notice and order to withhold and deliver. In the event there is in the
5 possession of the party named and served with such notice and order,
6 any property which may be subject to the claim of the department, such
7 property shall be delivered forthwith to the director or the director's
8 authorized representative upon demand. If the party served and named
9 in the notice and order fails to answer the notice and order within the
10 time prescribed in this section, the court may, after the time to
11 answer such order has expired, render judgment by default against the
12 party named in the notice for the full amount claimed by the director
13 in the notice together with costs. In the event that a notice to
14 withhold and deliver is served upon an employer and the property found
15 to be subject thereto is wages, the employer may assert in the answer
16 to all exemptions provided for by chapter 6.27 RCW to which the wage
17 earner may be entitled.))

18 **Sec. 58.** RCW 51.24.070 and 1984 c 218 s 6 are each amended to read
19 as follows:

20 (1) The ((department or self-insurer)) insurer may require the
21 injured worker or beneficiary to exercise the right of election under
22 this chapter by serving a written demand by registered mail, certified
23 mail, or personal service on the worker or beneficiary.

24 (2) Unless an election is made within sixty days of the receipt of
25 the demand, and unless an action is instituted or settled within the
26 time granted by the ((department or self-insurer)) insurer, the injured
27 worker or beneficiary is deemed to have assigned the action to the
28 ((department or self-insurer)) insurer. The ((department or self-
29 insurer)) insurer shall allow the worker or beneficiary at least ninety
30 days from the election to institute or settle the action. When a
31 beneficiary is a minor child the demand shall be served upon the legal
32 custodian or guardian of such beneficiary.

33 (3) If an action which has been filed is not diligently prosecuted,
34 the ((department or self-insurer)) insurer may petition the court in
35 which the action is pending for an order assigning the cause of action
36 to the ((department or self-insurer)) insurer. Upon a sufficient

1 showing of a lack of diligent prosecution the court in its discretion
2 may issue the order.

3 (4) If the ((~~department or self-insurer~~)) insurer has taken an
4 assignment of the third party cause of action under subsection (2) of
5 this section, the injured worker or beneficiary may, at the discretion
6 of the ((~~department or self-insurer~~)) insurer, exercise a right of
7 reelection and assume the cause of action subject to reimbursement of
8 litigation expenses incurred by the ((~~department or self-insurer~~))
9 insurer.

10 **Sec. 59.** RCW 51.24.080 and 1977 ex.s. c 85 s 6 are each amended to
11 read as follows:

12 (1) If the injured worker or beneficiary elects to seek damages
13 from the third person, notice of the election must be given to the
14 ((~~department or self-insurer~~)) insurer. The notice shall be by
15 registered mail, certified mail, or personal service. If an action is
16 filed by the injured worker or beneficiary, a copy of the complaint
17 must be sent by registered mail to the ((~~department or self-insurer~~))
18 insurer.

19 (2) A return showing service of the notice on the ((~~department or~~
20 ~~self-insurer~~)) insurer shall be filed with the court but shall not be
21 part of the record except as necessary to give notice to the defendant
22 of the lien imposed by RCW 51.24.060(2).

23 **Sec. 60.** RCW 51.24.090 and 1995 c 199 s 5 are each amended to read
24 as follows:

25 (1) Any compromise or settlement of the third party cause of action
26 by the injured worker or beneficiary which results in less than the
27 entitlement under this title is void unless made with the written
28 approval of the ((~~department or self-insurer~~)) insurer: PROVIDED, That
29 for the purposes of this chapter, "entitlement" means benefits and
30 compensation paid and estimated by the ((~~department~~)) insurer to be
31 paid in the future.

32 (2) If a compromise or settlement is void because of subsection (1)
33 of this section, the ((~~department or self-insurer~~)) insurer may
34 petition the court in which the action was filed for an order assigning
35 the cause of action to the ((~~department or self-insurer~~)) insurer. If

1 an action has not been filed, the (~~department or self-insurer~~)
2 insurer may proceed as provided in chapter 7.24 RCW.

3 NEW SECTION. **Sec. 61.** A new section is added to chapter 51.28 RCW
4 to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Commissioner" means the office of the insurance commissioner.

8 (2) "Department" means the appropriate administrative/processing
9 department of any insurer as defined in section 2 (1) and (2) of this
10 act.

11 (3) "Director" means the individual appointed by the insurance
12 commissioner to supervise the workers' compensation program.

13 **Sec. 62.** RCW 51.28.010 and 2007 c 77 s 1 are each amended to read
14 as follows:

15 (1) Whenever any accident occurs to any worker it shall be the duty
16 of such worker or someone in his or her behalf to forthwith report such
17 accident to his or her employer, superintendent, or supervisor in
18 charge of the work, and of the employer to at once report such accident
19 and the injury resulting therefrom to the department pursuant to RCW
20 51.28.025 where the worker has received treatment from a physician or
21 a licensed advanced registered nurse practitioner, has been
22 hospitalized, disabled from work, or has died as the apparent result of
23 such accident and injury.

24 (2) Upon receipt of such notice of accident, the department shall
25 immediately forward to the worker or his or her beneficiaries or
26 dependents notification, in nontechnical language, of their rights
27 under this title. The notice must specify the worker's right to
28 receive health services from a physician or a licensed advanced
29 registered nurse practitioner of the worker's choice under RCW
30 51.36.010, including chiropractic services under RCW 51.36.015, and
31 must list the types of providers authorized to provide these services.

32 (3) Employers shall not engage in claim suppression.

33 (4) For the purposes of this section, "claim suppression" means
34 intentionally:

35 (a) Inducing employees to fail to report injuries;

1 (b) Inducing employees to treat injuries in the course of
2 employment as off-the-job injuries; or

3 (c) Acting otherwise to suppress legitimate industrial insurance
4 claims.

5 (5) In determining whether an employer has engaged in claim
6 suppression, the ((department)) commissioner shall consider the
7 employer's history of compliance with industrial insurance reporting
8 requirements, and whether the employer has discouraged employees from
9 reporting injuries or filing claims. The ((department)) commissioner
10 has the burden of proving claim suppression by a preponderance of the
11 evidence.

12 (6) Claim suppression does not include bona fide workplace safety
13 and accident prevention programs or an employer's provision at the
14 worksite of first aid ((as defined by the department)). The
15 ((department)) commissioner shall adopt rules defining bona fide
16 workplace safety and accident prevention programs and defining first
17 aid.

18 **Sec. 63.** RCW 51.28.020 and 2005 c 108 s 3 are each amended to read
19 as follows:

20 (1)(a) Where a worker is entitled to compensation under this title
21 he or she shall file with the department or his or her self-insured
22 employer, as the case may be, his or her application for such, together
23 with the certificate of the physician or licensed advanced registered
24 nurse practitioner who attended him or her. An application form
25 developed by the department shall include a notice specifying the
26 worker's right to receive health services from a physician or licensed
27 advanced registered nurse practitioner of the worker's choice under RCW
28 51.36.010, including chiropractic services under RCW 51.36.015, and
29 listing the types of providers authorized to provide these services.

30 (b) The physician or licensed advanced registered nurse
31 practitioner who attended the injured worker shall inform the injured
32 worker of his or her rights under this title and lend all necessary
33 assistance in making this application for compensation and such proof
34 of other matters as required by the rules of the department without
35 charge to the worker. The department shall provide physicians with a
36 manual which outlines the procedures to be followed in applications for

1 compensation involving occupational diseases, and which describes
2 claimants' rights and responsibilities related to occupational disease
3 claims.

4 (2) If the application required by this section is:

5 (a) Filed on behalf of the worker by the physician who attended the
6 worker, the physician may transmit the application to the department
7 electronically using facsimile mail;

8 (b) Made to the department and the employer has not received a copy
9 of the application, the department shall immediately send a copy of the
10 application to the employer; or

11 (c) Made to a self-insured employer, the employer shall
12 ~~((forthwith))~~ immediately send a copy of the application to the
13 ~~((department))~~ commissioner.

14 **Sec. 64.** RCW 51.28.025 and 2007 c 77 s 2 are each amended to read
15 as follows:

16 (1) Whenever an employer has notice or knowledge of an injury or
17 occupational disease sustained by any worker in his or her employment
18 who has received treatment from a physician or a licensed advanced
19 registered nurse practitioner, has been hospitalized, disabled from
20 work or has died as the apparent result of such injury or occupational
21 disease, the employer shall immediately report the same to the
22 ~~((department))~~ commissioner on forms prescribed by it. The report
23 shall include:

24 (a) The name, address, and business of the employer;

25 (b) The name, address, and occupation of the worker;

26 (c) The date, time, cause, and nature of the injury or occupational
27 disease;

28 (d) Whether the injury or occupational disease arose in the course
29 of the injured worker's employment;

30 (e) All available information pertaining to the nature of the
31 injury or occupational disease including but not limited to any visible
32 signs, any complaints of the worker, any time lost from work, and the
33 observable effect on the worker's bodily functions, so far as is known;
34 and

35 (f) Such other pertinent information as the ~~((department))~~
36 commissioner may prescribe by regulation.

1 (2) The employer shall not engage in claim suppression. An
2 employer found to have engaged in claim suppression shall be subject to
3 a penalty of at least two hundred fifty dollars, not to exceed two
4 thousand five hundred dollars, for each offense. The penalty shall be
5 payable to the supplemental pension fund. The ((department))
6 commissioner shall adopt rules establishing the amount of penalties,
7 taking into account the size of the employer and whether there are
8 prior findings of claim suppression. When a determination of claim
9 suppression has been made(~~, the employer shall be prohibited from any~~
10 ~~current or future participation in a retrospective rating program.~~
11 ~~If~~) in the case of an employer that is self-insured, the ((director))
12 commissioner shall withdraw certification as provided in RCW 51.14.080.

13 (3) When a determination of claim suppression is made and the
14 penalty is assessed, the ((department)) commissioner shall serve the
15 employer (~~and any affected retrospective rating group~~) with a
16 determination as provided in RCW 51.52.050. The determination may be
17 protested to the ((department)) commissioner or appealed to the board
18 of industrial insurance appeals. Once the order is final, the amount
19 due shall be collected (~~in accordance with the provisions of RCW~~
20 ~~51.48.140 and 51.48.150~~)).

21 (4) The director, or the director's designee, shall investigate
22 reports or complaints that an employer has engaged in claim suppression
23 as prohibited in RCW 51.28.010(3). The complaints or allegations must
24 be received in writing, and must include the name or names of the
25 individuals or organizations submitting the complaint. In cases where
26 the ((department)) commissioner can show probable cause, the director
27 may subpoena records from the employer, medical providers, and any
28 other entity that the director believes may have relevant information.
29 The director's investigative and subpoena authority in this subsection
30 is limited solely to investigations into allegations of claim
31 suppression or where the director has probable cause that claim
32 suppression might have occurred.

33 (5) If the director determines that an employer has engaged in
34 claim suppression and, as a result, the worker has not filed a claim
35 for industrial insurance benefits as prescribed by law, then the
36 director in his or her sole discretion may waive the time limits for
37 filing a claim provided in RCW 51.28.050, if the complaint or
38 allegation of claim suppression is received within two years of the

1 worker's accident or exposure. For the director to exercise this
2 discretion, the claim must be filed with the (~~department~~)
3 commissioner within ninety days of the date the determination of claim
4 suppression is issued.

5 (6) For the purposes of this section, "claim suppression" has the
6 same meaning as in RCW 51.28.010(4).

7 **Sec. 65.** RCW 51.28.055 and 2004 c 65 s 7 are each amended to read
8 as follows:

9 (1) Except as provided in subsection (2) of this section for claims
10 filed for occupational hearing loss, claims for occupational disease or
11 infection to be valid and compensable must be filed within two years
12 following the date the worker had written notice from a physician or a
13 licensed advanced registered nurse practitioner: (a) Of the existence
14 of his or her occupational disease, and (b) that a claim for disability
15 benefits may be filed. The notice shall also contain a statement that
16 the worker has two years from the date of the notice to file a claim.
17 The physician or licensed advanced registered nurse practitioner shall
18 file the notice with the department. The department shall send a copy
19 to the worker and to the self-insurer if the worker's employer is self-
20 insured. However, a claim is valid if it is filed within two years
21 from the date of death of the worker suffering from an occupational
22 disease.

23 (2)(a) Except as provided in (b) of this subsection, to be valid
24 and compensable, claims for hearing loss due to occupational noise
25 exposure must be filed within two years of the date of the worker's
26 last injurious exposure to occupational noise in employment covered
27 under this title or within one year of September 10, 2003, whichever is
28 later.

29 (b) A claim for hearing loss due to occupational noise exposure
30 that is not timely filed under (a) of this subsection can only be
31 allowed for medical aid benefits under chapter 51.36 RCW.

32 (~~(3) The department may adopt rules to implement this section.~~)

33 **Sec. 66.** RCW 51.28.080 and 2005 c 108 s 4 are each amended to read
34 as follows:

35 (1) An employer shall be promptly notified by the department when:

1 (a) The department has received an application for compensation
2 under this title(~~(. If the employer is a state fund employer, the~~
3 ~~department shall instruct the employer to submit a report of accident~~
4 ~~form and provide a telephone number for assistance in the reporting~~
5 ~~process)); and~~

6 (b) It has determined that a worker of that employer is entitled to
7 compensation under RCW 51.32.090.

8 (2) Notification shall include, in nontechnical language, an
9 explanation of the employer's rights under this title.

10 **Sec. 67.** RCW 51.28.090 and 1987 1st ex.s. c 5 s 17 are each
11 amended to read as follows:

12 The (~~director~~) department shall notify persons receiving time-
13 loss payments under this chapter of the availability of basic health
14 care coverage to qualified enrollees under chapter 70.47 RCW, unless
15 the Washington basic health plan administrator has notified the
16 (~~director~~) department of closure of enrollment in the plan. The
17 director shall maintain supplies of Washington basic health plan
18 enrollment application forms in all field service offices where the
19 plan is available, which shall be provided in reasonably necessary
20 quantities by the administrator for the use of persons wishing to apply
21 for enrollment in the Washington basic health plan.

22 NEW SECTION. **Sec. 68.** A new section is added to chapter 51.32 RCW
23 to read as follows:

24 The definitions in this section apply throughout this chapter
25 unless the context clearly requires otherwise.

26 (1) "Commissioner" means the office of the insurance commissioner.

27 (2) "Department" or "supervisor" means the appropriate
28 administrative/processing department of any insurer as defined in
29 section 2 (1) and (2) of this act.

30 (3) "Director" means the individual appointed by the insurance
31 commissioner to supervise the industrial insurance program.

32 **Sec. 69.** RCW 51.32.055 and 2004 c 65 s 8 are each amended to read
33 as follows:

34 (1) One purpose of this title is to restore the injured worker as
35 nearly as possible to the condition of self-support as an able-bodied

1 worker. Benefits for permanent disability shall be determined (~~under~~
2 ~~the director's supervision~~) by the department, except as otherwise
3 authorized in subsection (9) of this section, only after the injured
4 worker's condition becomes fixed.

5 (2) All determinations of permanent disabilities shall be made by
6 the department, except as otherwise authorized in subsection (9) of
7 this section. Either the worker, employer, or self-insurer may make a
8 request or the inquiry may be initiated by the (~~director or, as~~
9 ~~authorized in subsection (9) of this section, by the self-insurer on~~
10 ~~the director or the self-insurer's own motion~~) department.
11 Determinations shall be required in every instance where permanent
12 disability is likely to be present. All medical reports and other
13 pertinent information in the possession of or under the control of the
14 employer or, if the self-insurer has made a request (~~to the~~
15 ~~department~~), in the possession of or under the control of the self-
16 insurer shall be forwarded to the director with the request.

17 (3) A request for determination of permanent disability shall be
18 examined by the department or, if authorized in subsection (9) of this
19 section, the self-insurer, and the department shall issue an order in
20 accordance with RCW 51.52.050 or, in the case of a self-insured
21 employer, the self-insurer may: (a) Enter a written order,
22 communicated to the worker and the (~~department~~) commissioner self-
23 insurance section in accordance with subsection (9) of this section, or
24 (b) request the (~~department~~) commissioner to issue an order in
25 accordance with RCW 51.52.050.

26 (4) The department or, in cases authorized in subsection (9) of
27 this section, the self-insurer may require that the worker present
28 himself or herself for a special medical examination by a physician or
29 physicians selected by the department, and the department or, in cases
30 authorized in subsection (9) of this section, the self-insurer may
31 require that the worker present himself or herself for a personal
32 interview. The costs of the examination or interview, including
33 payment of any reasonable travel expenses, shall be paid by the
34 department or self-insurer, as the case may be.

35 (5) The director may establish a medical bureau within the
36 department to perform medical examinations (~~under this section~~).
37 Physicians hired or retained for this purpose shall be grounded in

1 industrial medicine and in the assessment of industrial physical
2 impairment. Self-insurers shall bear a proportionate share of the cost
3 of the medical bureau in a manner to be determined by the department.

4 (6) Where a dispute arises from the handling of any claim before
5 the condition of the injured worker becomes fixed, the worker,
6 employer, or self-insurer may request the ((department)) commissioner
7 to resolve the dispute or the director may initiate an inquiry on his
8 or her own motion. In these cases, the ((department)) commissioner
9 shall proceed as provided in this section and an order shall issue in
10 accordance with RCW 51.52.050.

11 (7)(a) If a claim (i) is accepted by a self-insurer after June 30,
12 1986, and before August 1, 1997, (ii) involves only medical treatment
13 and the payment of temporary disability compensation under RCW
14 51.32.090 or only the payment of temporary disability compensation
15 under RCW 51.32.090, (iii) at the time medical treatment is concluded
16 does not involve permanent disability, (iv) is one with respect to
17 which the ((department)) commissioner has not intervened under
18 subsection (6) of this section, and (v) the injured worker has returned
19 to work with the self-insured employer of record, whether at the
20 worker's previous job or at a job that has comparable wages and
21 benefits, the claim may be closed by the self-insurer, subject to
22 reporting of claims to the ((department)) commissioner in a manner
23 prescribed by ((department)) commissioner rules adopted under chapter
24 34.05 RCW.

25 (b) All determinations of permanent disability for claims accepted
26 under this subsection (7) by self-insurers shall be made by the self-
27 insured section of the ((department)) commissioner under subsections
28 (1) through (4) of this section.

29 (c) Upon closure of a claim under (a) of this subsection, the self-
30 insurer shall enter a written order, communicated to the worker and the
31 ((department)) commissioner's self-insurance section, which contains
32 the following statement clearly set forth in bold face type: "This
33 order constitutes notification that your claim is being closed with
34 medical benefits and temporary disability compensation only as
35 provided, and with the condition you have returned to work with the
36 self-insured employer. If for any reason you disagree with the
37 conditions or duration of your return to work or the medical benefits
38 or the temporary disability compensation that has been provided, you

1 must protest in writing to the (~~department of labor and industries,~~)
2 commissioner's self-insurance section, within sixty days of the date
3 you received this order."

4 (8)(a) If a claim (i) is accepted by a self-insurer after June 30,
5 1990, and before August 1, 1997, (ii) involves only medical treatment,
6 (iii) does not involve payment of temporary disability compensation
7 under RCW 51.32.090, and (iv) at the time medical treatment is
8 concluded does not involve permanent disability, the claim may be
9 closed by the self-insurer, subject to reporting of claims to the
10 (~~department~~) commissioner in a manner prescribed by department rules
11 adopted under chapter 34.05 RCW. Upon closure of a claim, the self-
12 insurer shall enter a written order, communicated to the worker, which
13 contains the following statement clearly set forth in bold-face type:
14 "This order constitutes notification that your claim is being closed
15 with medical benefits only, as provided. If for any reason you
16 disagree with this closure, you must protest in writing to the
17 (~~Department of Labor and Industries~~) office of the insurance
18 commissioner, Olympia, within 60 days of the date you received this
19 order. The (~~department~~) commissioner will then review your claim and
20 enter a further determinative order."

21 (b) All determinations of permanent disability for claims accepted
22 under this subsection (8) by self-insurers shall be made by the self-
23 insured section of the (~~department~~) commissioner under subsections
24 (1) through (4) of this section.

25 (9)(a) If a claim: (i) Is accepted by a self-insurer after July
26 31, 1997; (ii)(A) involves only medical treatment, or medical treatment
27 and the payment of temporary disability compensation under RCW
28 51.32.090, and a determination of permanent partial disability, if
29 applicable, has been made by the self-insurer as authorized in this
30 subsection; or (B) involves only the payment of temporary disability
31 compensation under RCW 51.32.090 and a determination of permanent
32 partial disability, if applicable, has been made by the self-insurer as
33 authorized in this subsection; (iii) is one with respect to which the
34 (~~department~~) commissioner has not intervened under subsection (6) of
35 this section; and (iv) concerns an injured worker who has returned to
36 work with the self-insured employer of record, whether at the worker's
37 previous job or at a job that has comparable wages and benefits, the

1 claim may be closed by the self-insurer, subject to reporting of claims
2 to the ((~~department~~)) commissioner in a manner prescribed by
3 ((~~department~~)) commissioner rules adopted under chapter 34.05 RCW.

4 (b) If a physician or licensed advanced registered nurse
5 practitioner submits a report to the self-insurer that concludes that
6 the worker's condition is fixed and stable and supports payment of a
7 permanent partial disability award, and if within fourteen days from
8 the date the self-insurer mailed the report to the attending or
9 treating physician or licensed advanced registered nurse practitioner,
10 the worker's attending or treating physician or licensed advanced
11 registered nurse practitioner disagrees in writing that the worker's
12 condition is fixed and stable, the self-insurer must get a supplemental
13 medical opinion from a provider on the ((~~department's~~)) commissioner's
14 approved examiner's list before closing the claim. In the alternative,
15 the self-insurer may forward the claim to the ((~~department~~))
16 commissioner, which must review the claim and enter a final order as
17 provided for in RCW 51.52.050.

18 (c) Upon closure of a claim under this subsection (9), the self-
19 insurer shall enter a written order, communicated to the worker and the
20 ((~~department~~)) commissioner's self-insurance section, which contains
21 the following statement clearly set forth in bold-face type: "This
22 order constitutes notification that your claim is being closed with
23 such medical benefits and temporary disability compensation as provided
24 to date and with such award for permanent partial disability, if any,
25 as set forth below, and with the condition that you have returned to
26 work with the self-insured employer. If for any reason you disagree
27 with the conditions or duration of your return to work or the medical
28 benefits, temporary disability compensation provided, or permanent
29 partial disability that has been awarded, you must protest in writing
30 to the ((~~Department of Labor and Industries~~)) office of the insurance
31 commissioner, Self-Insurance Section, within sixty days of the date you
32 received this order. If you do not protest this order to the
33 department, this order will become final."

34 (d) All determinations of permanent partial disability for claims
35 accepted by self-insurers under this subsection (9) may be made by the
36 self-insurer or the self-insurer may request a determination by the
37 self-insured section of the ((~~department~~)) commissioner. All

1 determinations shall be made under subsections (1) through (4) of this
2 section.

3 (10) If the ((department)) commissioner receives a protest of an
4 order issued by a self-insurer under subsections (7) through (9) of
5 this section, the self-insurer's closure order must be held in
6 abeyance. The ((department)) commissioner shall review the claim
7 closure action and enter a further determinative order as provided for
8 in RCW 51.52.050. If no protest is timely filed, the closing order
9 issued by the self-insurer shall become final and shall have the same
10 force and effect as a ((department)) commissioner order that has become
11 final under RCW 51.52.050.

12 (11) If within two years of claim closure under subsections (7)
13 through (9) of this section, the ((department)) commissioner determines
14 that the self-insurer has made payment of benefits because of clerical
15 error, mistake of identity, or innocent misrepresentation or the
16 ((department)) commissioner discovers a violation of the conditions of
17 claim closure, the ((department)) commissioner may require the self-
18 insurer to correct the benefits paid or payable. This subsection (11)
19 does not limit in any way the application of RCW 51.32.240.

20 (12) For the purposes of this section, "comparable wages and
21 benefits" means wages and benefits that are at least ninety-five
22 percent of the wages and benefits received by the worker at the time of
23 injury.

24 **Sec. 70.** RCW 51.32.060 and 2007 c 284 s 2 are each amended to read
25 as follows:

26 (1) When the ((supervisor of industrial insurance shall determine))
27 department determines that permanent total disability results from the
28 injury, the worker shall receive monthly during the period of such
29 disability:

30 (a) If married at the time of injury, sixty-five percent of his or
31 her wages.

32 (b) If married with one child at the time of injury, sixty-seven
33 percent of his or her wages.

34 (c) If married with two children at the time of injury, sixty-nine
35 percent of his or her wages.

36 (d) If married with three children at the time of injury,
37 seventy-one percent of his or her wages.

1 (e) If married with four children at the time of injury,
2 seventy-three percent of his or her wages.

3 (f) If married with five or more children at the time of injury,
4 seventy-five percent of his or her wages.

5 (g) If unmarried at the time of the injury, sixty percent of his or
6 her wages.

7 (h) If unmarried with one child at the time of injury, sixty-two
8 percent of his or her wages.

9 (i) If unmarried with two children at the time of injury,
10 sixty-four percent of his or her wages.

11 (j) If unmarried with three children at the time of injury,
12 sixty-six percent of his or her wages.

13 (k) If unmarried with four children at the time of injury,
14 sixty-eight percent of his or her wages.

15 (1) If unmarried with five or more children at the time of injury,
16 seventy percent of his or her wages.

17 (2) For any period of time where both husband and wife are entitled
18 to compensation as temporarily or totally disabled workers, only that
19 spouse having the higher wages of the two shall be entitled to claim
20 their child or children for compensation purposes.

21 (3) In case of permanent total disability, if the character of the
22 injury is such as to render the worker so physically helpless as to
23 require the hiring of the services of an attendant, the department
24 shall make monthly payments to such attendant for such services as long
25 as such requirement continues, but such payments shall not obtain or be
26 operative while the worker is receiving care under or pursuant to the
27 provisions of chapter 51.36 RCW and RCW 51.04.105.

28 (4) Should any further accident result in the permanent total
29 disability of an injured worker, he or she shall receive the pension to
30 which he or she would be entitled, notwithstanding the payment of a
31 lump sum for his or her prior injury.

32 (5) In no event shall the monthly payments provided in this
33 section:

34 (a) Exceed the applicable percentage of the average monthly wage in
35 the state as computed under the provisions of RCW 51.08.018 as follows:

	AFTER	PERCENTAGE
1		
2	June 30, 1993	105%
3	June 30, 1994	110%
4	June 30, 1995	115%
5	June 30, 1996	120%

6 (b) For dates of injury or disease manifestation after July 1,
7 2008, be less than fifteen percent of the average monthly wage in the
8 state as computed under RCW 51.08.018 plus an additional ten dollars
9 per month if a worker is married and an additional ten dollars per
10 month for each child of the worker up to a maximum of five children.
11 However, if the monthly payment computed under this subsection (5)(b)
12 is greater than one hundred percent of the wages of the worker as
13 determined under RCW 51.08.178, the monthly payment due to the worker
14 shall be equal to the greater of the monthly wages of the worker or the
15 minimum benefit set forth in this section on June 30, 2008.

16 The limitations under this subsection shall not apply to the
17 payments provided for in subsection (3) of this section.

18 (6) In the case of new or reopened claims, if the (~~supervisor of~~
19 ~~industrial insurance~~) department determines that, at the time of
20 filing or reopening, the worker is voluntarily retired and is no longer
21 attached to the workforce, benefits shall not be paid under this
22 section.

23 (7) The benefits provided by this section are subject to
24 modification under RCW 51.32.067.

25 **Sec. 71.** RCW 51.32.067 and 2006 c 154 s 1 are each amended to read
26 as follows:

27 (1) After a worker elects one of the options in (a), (b), or (c) of
28 this subsection, that option shall apply only if the worker dies during
29 a period of permanent total disability from a cause unrelated to the
30 injury, leaving a surviving spouse, child, children, or other
31 dependent. If, after making an election under this subsection, a
32 worker dies from a cause related to the injury during a period of
33 permanent total disability, his or her beneficiaries shall receive
34 benefits under RCW 51.32.050 (2) through (5).

1 (a) **Option I.** An injured worker selecting this option shall
2 receive the benefits provided by RCW 51.32.060, with no benefits being
3 paid to the worker's surviving spouse, children, or others.

4 (b) **Option II.** An injured worker selecting this option shall
5 receive an actuarially reduced benefit which upon death shall be
6 continued throughout the life of and paid to the surviving spouse,
7 child, or other dependent as the worker has nominated by written
8 designation duly executed and filed with the department.

9 (c) **Option III.** An injured worker selecting this option shall
10 receive an actuarially reduced benefit and, upon death, one-half of the
11 reduced benefit shall be continued throughout the life of and paid to
12 the surviving spouse, child, or other dependent as the worker has
13 nominated by written designation duly executed and filed with the
14 department.

15 (2) The worker shall make the election in writing and the worker's
16 spouse, if any, shall consent in writing as a prerequisite to the
17 election of Option I.

18 (3) If the worker's nominated beneficiary is the worker's spouse,
19 and the worker and spouse enter into a dissolution of marriage after
20 the nomination has been made, the worker may apply to receive benefits
21 as calculated under Option I. This change is effective the date of the
22 decree of dissolution of marriage, but no more than one year prior to
23 the date application for the change is received in the department,
24 provided the worker submits legally certified documentation of the
25 decree of dissolution of marriage.

26 (4) If the worker's nominated beneficiary dies, the worker may
27 apply to receive benefits as calculated under Option I. This change is
28 effective the date of death, but no more than one year prior to the
29 date application for the change is received in the department, provided
30 the worker submits a certified copy of the death certificate.

31 (5) The change in benefits authorized by subsections (3) and (4) of
32 this section is a one-time adjustment and will be permanent for the
33 life of the worker.

34 ~~((6) The department shall adopt such rules as may be necessary to
35 implement this section.))~~

36 **Sec. 72.** RCW 51.32.072 and 1987 c 185 s 34 are each amended to
37 read as follows:

1 Notwithstanding any other provision of law, every surviving spouse
2 and every permanently totally disabled worker or temporarily totally
3 disabled worker, if such worker was unmarried at the time of the
4 worker's injury or was then married but the marriage was later
5 terminated by judicial action, receiving a pension or compensation for
6 temporary total disability under this title pursuant to compensation
7 schedules in effect prior to July 1, 1971, shall after July 1, 1975, be
8 paid fifty percent of the average monthly wage in the state as computed
9 under RCW 51.08.018 per month and an amount equal to five percent of
10 such average monthly wage per month to such totally disabled worker if
11 married at the time of the worker's injury and the marriage was not
12 later terminated by judicial action, and an additional two percent of
13 such average monthly wage for each child of such totally disabled
14 worker at the time of injury in the legal custody of such totally
15 disabled worker or such surviving spouse up to a maximum of five such
16 children. The monthly payments such surviving spouse or totally
17 disabled worker are receiving pursuant to compensation schedules in
18 effect prior to July 1, 1971 shall be deducted from the monthly
19 payments above specified.

20 Where such a surviving spouse has remarried, or where any such
21 child of such worker, whether living or deceased, is not in the legal
22 custody of such worker or such surviving spouse there shall be paid for
23 the benefit of and on account of each such child a sum equal to two
24 percent of such average monthly wage up to a maximum of five such
25 children in addition to any payments theretofore paid under
26 compensation schedules in effect prior to July 1, 1971 for the benefit
27 of and on account of each such child. In the case of any child or
28 children of a deceased worker not leaving a surviving spouse or where
29 the surviving spouse has later died, there shall be paid for the
30 benefit of and on account of each such child a sum equal to two percent
31 of such average monthly wage up to a maximum of five such children in
32 addition to any payments theretofore paid under such schedules for the
33 benefit of and on account of each such child.

34 If the character of the injury or occupational disease is such as
35 to render the worker so physically helpless as to require the hiring of
36 the services of an attendant, the department shall make monthly
37 payments to such attendant for such services as long as such
38 requirement continues but such payments shall not obtain or be

1 operative while the worker is receiving care under or pursuant to the
2 provisions of this title except for care granted at the discretion of
3 the ((supervisor)) commissioner pursuant to RCW 51.36.010: PROVIDED,
4 That such payments shall not be considered compensation nor shall they
5 be subject to any limitation upon total compensation payments.

6 ((No part of such additional payments shall be payable from the
7 accident fund.))

8 The ((director)) commissioner shall pay monthly from the
9 supplemental pension fund such an amount as will, when added to the
10 compensation theretofore paid under compensation schedules in effect
11 prior to July 1, 1971, equal the amounts hereinabove specified.

12 In cases where money has been or shall be advanced to any such
13 person from the pension reserve, the additional amount to be paid under
14 this section shall be reduced by the amount of monthly pension which
15 was or is predicated upon such advanced portion of the pension reserve.

16 **Sec. 73.** RCW 51.32.073 and 1989 c 385 s 4 are each amended to read
17 as follows:

18 (1) Except as provided in subsection (2) of this section, each
19 employer shall retain from the earnings of each worker that amount as
20 shall be fixed from time to time by the director, the basis for
21 measuring said amount to be determined by the director. The money so
22 retained shall be matched in an equal amount by each employer, and all
23 such moneys shall be remitted to the ((department)) commissioner in
24 such manner and at such intervals as the ((department)) commissioner
25 directs and shall be placed in the supplemental pension fund:
26 PROVIDED, That the state apprenticeship council shall pay the entire
27 amount into the supplemental pension fund for registered apprentices or
28 trainees during their participation in supplemental and related
29 instruction classes. Each insurer shall remit to the commissioner for
30 the supplemental pension fund an amount to be determined by the
31 commissioner. The moneys so collected shall be used exclusively for
32 the additional payments from the supplemental pension fund prescribed
33 in this title and for the amount of any increase payable under the
34 provisions of RCW 51.32.075, ((as now or hereafter amended,)) and shall
35 be no more than necessary to make such payments on a current basis.
36 The ((department)) commissioner may require a self-insurer to make any

1 additional payments which are payable from the supplemental pension
2 fund and thereafter such self-insurer shall be reimbursed therefrom.

3 (2) None of the amount assessed for the supplemental pension fund
4 (~~(under RCW 51.16.210)~~) may be retained from the earnings of workers
5 (~~(covered under RCW 51.16.210)~~).

6 **Sec. 74.** RCW 51.32.080 and 2007 c 172 s 1 are each amended to read
7 as follows:

8 (1)(a) Until July 1, 1993, for the permanent partial disabilities
9 here specifically described, the injured worker shall receive
10 compensation as follows:

11 LOSS BY AMPUTATION	
12 Of leg above the knee joint with short	\$54,000.00
13 thigh stump (3" or less below the	
14 tuberosity of ischium).....	
15 Of leg at or above knee joint with	48,600.00
16 functional stump.....	
17 Of leg below knee joint.....	43,200.00
18 Of leg at ankle (Syme).....	37,800.00
19 Of foot at mid-metatarsals.....	18,900.00
20 Of great toe with resection of metatarsal	11,340.00
21 bone.....	
22 Of great toe at metatarsophalangeal	6,804.00
23 joint.....	
24 Of great toe at interphalangeal joint.....	3,600.00
25 Of lesser toe (2nd to 5th) with resection of	4,140.00
26 metatarsal bone.....	
27 Of lesser toe at metatarsophalangeal	2,016.00
28 joint.....	
29 Of lesser toe at proximal interphalangeal	1,494.00
30 joint.....	
31 Of lesser toe at distal interphalangeal	378.00
32 joint.....	
33 Of arm at or above the deltoid insertion or	54,000.00
34 by disarticulation at the shoulder.....	

1	Of arm at any point from below the deltoid	51,300.00
2	insertion to below the elbow joint at	
3	the insertion of the biceps tendon	
4	Of arm at any point from below the elbow	48,600.00
5	joint distal to the insertion of the	
6	biceps tendon to and including	
7	mid-metacarpal amputation of the	
8	hand	
9	Of all fingers except the thumb at	29,160.00
10	metacarpophalangeal joints	
11	Of thumb at metacarpophalangeal joint or	19,440.00
12	with resection of carpometacarpal	
13	bone	
14	Of thumb at interphalangeal joint	9,720.00
15	Of index finger at metacarpophalangeal	12,150.00
16	joint or with resection of metacarpal	
17	bone	
18	Of index finger at proximal	9,720.00
19	interphalangeal joint	
20	Of index finger at distal interphalangeal	5,346.00
21	joint	
22	Of middle finger at metacarpophalangeal	9,720.00
23	joint or with resection of metacarpal	
24	bone	
25	Of middle finger at proximal	7,776.00
26	interphalangeal joint	
27	Of middle finger at distal interphalangeal	4,374.00
28	joint	
29	Of ring finger at metacarpophalangeal	4,860.00
30	joint or with resection of metacarpal	
31	bone	
32	Of ring finger at proximal interphalangeal	3,888.00
33	joint	
34	Of ring finger at distal interphalangeal	2,430.00
35	joint	

1	Of little finger at metacarpophalangeal	2,430.00
2	joint or with resection of metacarpal	
3	bone.....	
4	Of little finger at proximal interphalangeal	1,944.00
5	joint.....	
6	Of little finger at distal interphalangeal	972.00
7	joint.....	

MISCELLANEOUS

9	Loss of one eye by enucleation.....	21,600.00
10	Loss of central visual acuity in one eye.....	18,000.00
11	Complete loss of hearing in both ears.....	43,200.00
12	Complete loss of hearing in one ear.....	7,200.00

13 (b) Beginning on July 1, 1993, compensation under this subsection
 14 shall be computed as follows:

15 (i) Beginning on July 1, 1993, the compensation amounts for the
 16 specified disabilities listed in (a) of this subsection shall be
 17 increased by thirty-two percent; and

18 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the
 19 compensation amounts for the specified disabilities listed in (a) of
 20 this subsection, as adjusted under (b)(i) of this subsection, shall be
 21 readjusted to reflect the percentage change in the consumer price
 22 index, calculated as follows: The index for the calendar year
 23 preceding the year in which the July calculation is made, to be known
 24 as "calendar year A," is divided by the index for the calendar year
 25 preceding calendar year A, and the resulting ratio is multiplied by the
 26 compensation amount in effect on June 30 immediately preceding the July
 27 1st on which the respective calculation is made. For the purposes of
 28 this subsection, "index" means the same as the definition in RCW
 29 2.12.037(1).

30 (2) Compensation for amputation of a member or part thereof at a
 31 site other than those specified in subsection (1) of this section, and
 32 for loss of central visual acuity and loss of hearing other than
 33 complete, shall be in proportion to that which such other amputation or
 34 partial loss of visual acuity or hearing most closely resembles and
 35 approximates. Compensation shall be calculated based on the adjusted

1 schedule of compensation in effect for the respective time period as
2 prescribed in subsection (1) of this section.

3 (3)(a) Compensation for any other permanent partial disability not
4 involving amputation shall be in the proportion which the extent of
5 such other disability, called unspecified disability, shall bear to the
6 disabilities specified in subsection (1) of this section, which most
7 closely resembles and approximates in degree of disability such other
8 disability, and compensation for any other unspecified permanent
9 partial disability shall be in an amount as measured and compared to
10 total bodily impairment. To reduce litigation and establish more
11 certainty and uniformity in the rating of unspecified permanent partial
12 disabilities, the ((department)) commissioner shall enact rules having
13 the force of law classifying such disabilities in the proportion which
14 the department shall determine such disabilities reasonably bear to
15 total bodily impairment. In enacting such rules, the ((department))
16 commissioner shall give consideration to, but need not necessarily
17 adopt, any nationally recognized medical standards or guides for
18 determining various bodily impairments.

19 (b) Until July 1, 1993, for purposes of calculating monetary
20 benefits under (a) of this subsection, the amount payable for total
21 bodily impairment shall be deemed to be ninety thousand dollars.
22 Beginning on July 1, 1993, for purposes of calculating monetary
23 benefits under (a) of this subsection, the amount payable for total
24 bodily impairment shall be adjusted as follows:

25 (i) Beginning on July 1, 1993, the amount payable for total bodily
26 impairment under this section shall be increased to one hundred
27 eighteen thousand eight hundred dollars; and

28 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the
29 amount payable for total bodily impairment prescribed in (b)(i) of this
30 subsection shall be adjusted as provided in subsection (1)(b)(ii) of
31 this section.

32 (c) Until July 1, 1993, the total compensation for all unspecified
33 permanent partial disabilities resulting from the same injury shall not
34 exceed the sum of ninety thousand dollars. Beginning on July 1, 1993,
35 total compensation for all unspecified permanent partial disabilities
36 resulting from the same injury shall not exceed a sum calculated as
37 follows:

1 (i) Beginning on July 1, 1993, the sum shall be increased to one
2 hundred eighteen thousand eight hundred dollars; and

3 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the sum
4 prescribed in (b)(i) of this subsection shall be adjusted as provided
5 in subsection (1)(b)(ii) of this section.

6 (4) If permanent partial disability compensation is followed by
7 permanent total disability compensation, any portion of the permanent
8 partial disability compensation which exceeds the amount that would
9 have been paid the injured worker if permanent total disability
10 compensation had been paid in the first instance shall be, at the
11 choosing of the injured worker, either: (a) Deducted from the worker's
12 monthly pension benefits in an amount not to exceed twenty-five percent
13 of the monthly amount due from the department or self-insurer or one-
14 sixth of the total overpayment, whichever is less; or (b) deducted from
15 the pension reserve of such injured worker and his or her monthly
16 compensation payments shall be reduced accordingly.

17 (5) Should a worker receive an injury to a member or part of his or
18 her body already, from whatever cause, permanently partially disabled,
19 resulting in the amputation thereof or in an aggravation or increase in
20 such permanent partial disability but not resulting in the permanent
21 total disability of such worker, his or her compensation for such
22 partial disability shall be adjudged with regard to the previous
23 disability of the injured member or part and the degree or extent of
24 the aggravation or increase of disability thereof.

25 (6) When the compensation provided for in subsections (1) through
26 (3) of this section exceeds three times the average monthly wage in the
27 state as computed under the provisions of RCW 51.08.018, payment shall
28 be made in monthly payments in accordance with the schedule of
29 temporary total disability payments set forth in RCW 51.32.090 until
30 such compensation is paid to the injured worker in full, except that
31 the first monthly payment shall be in an amount equal to three times
32 the average monthly wage in the state as computed under the provisions
33 of RCW 51.08.018, and interest shall be paid at the rate of eight
34 percent on the unpaid balance of such compensation commencing with the
35 second monthly payment. However, upon application of the injured
36 worker or survivor the monthly payment may be converted, in whole or in
37 part, into a lump sum payment, in which event the monthly payment shall
38 cease in whole or in part. Such conversion may be made only upon

1 written application of the injured worker or survivor to the department
2 and shall rest in the discretion of the department depending upon the
3 merits of each individual application. Upon the death of a worker all
4 unpaid installments accrued shall be paid according to the payment
5 schedule established prior to the death of the worker to the widow or
6 widower, or if there is no widow or widower surviving, to the dependent
7 children of such claimant, and if there are no such dependent children,
8 then to such other dependents as defined by this title.

9 (7) Awards payable under this section are governed by the schedule
10 in effect on the date of injury.

11 **Sec. 75.** RCW 51.32.098 and 1985 c 339 s 4 are each amended to read
12 as follows:

13 Nothing in RCW 51.32.095 or in the repeal of chapter 51.41 RCW by
14 section 5, chapter 339, Laws of 1985 shall be construed as prohibiting
15 the completion of vocational rehabilitation plans approved under this
16 title prior to May 16, 1985. Injured workers referred for vocational
17 rehabilitation services under this title, but for whom vocational
18 rehabilitation plans have not been approved (~~((by the department))~~) under
19 this title before May 16, 1985, may only be provided vocational
20 rehabilitation services, if applicable, (~~((by the department))~~) according
21 to the provisions of RCW 51.32.095.

22 **Sec. 76.** RCW 51.32.110 and 1997 c 325 s 3 are each amended to read
23 as follows:

24 (1) Any worker entitled to receive any benefits or claiming such
25 under this title shall, if requested by the department or self-insurer,
26 submit himself or herself for medical examination, at a time and from
27 time to time, at a place reasonably convenient for the worker and as
28 may be provided by the rules of the department. An injured worker,
29 whether an alien or other injured worker, who is not residing in the
30 United States at the time that a medical examination is requested may
31 be required to submit to an examination at any location in the United
32 States determined by the department or self-insurer.

33 (2) If the worker refuses to submit to medical examination, or
34 obstructs the same, or, if any injured worker shall persist in
35 unsanitary or injurious practices which tend to imperil or retard his
36 or her recovery, or shall refuse to submit to such medical or surgical

1 treatment as is reasonably essential to his or her recovery or refuse
2 or obstruct evaluation or examination for the purpose of vocational
3 rehabilitation or does not cooperate in reasonable efforts at such
4 rehabilitation, the department or the self-insurer upon approval by the
5 ((department)) commissioner, with notice to the worker may suspend any
6 further action on any claim of such worker so long as such refusal,
7 obstruction, noncooperation, or practice continues and reduce, suspend,
8 or deny any compensation for such period: PROVIDED, That the
9 department or the self-insurer shall not suspend any further action on
10 any claim of a worker or reduce, suspend, or deny any compensation if
11 a worker has good cause for refusing to submit to or to obstruct any
12 examination, evaluation, treatment or practice requested by the
13 department or required under this section.

14 (3) If the worker necessarily incurs traveling expenses in
15 attending the examination pursuant to the request of the department,
16 such traveling expenses shall be repaid to him or her ((out of the
17 accident fund)) upon proper voucher and audit or shall be repaid by the
18 self-insurer, as the case may be.

19 (4)(a) If the medical examination required by this section causes
20 the worker to be absent from his or her work without pay(÷

21 ~~(i) In the case of a worker insured by the department)), the worker~~
22 shall be paid compensation ((out of the accident fund)) in an amount
23 equal to his or her usual wages for the time lost from work while
24 attending the medical examination((÷ or

25 ~~(ii) In the case of a worker of a self-insurer, the self-insurer~~
26 ~~shall pay the worker an amount equal to his or her usual wages for the~~
27 ~~time lost from work while attending the medical examination.~~

28 ~~(b) This subsection (4) shall apply prospectively to all claims~~
29 ~~regardless of the date of injury)).~~

30 (b) This subsection (4) applies to all claims regardless of the
31 date of injury.

32 **Sec. 77.** RCW 51.32.112 and 1993 c 515 s 4 are each amended to read
33 as follows:

34 (1) The ((department)) commissioner shall develop standards for the
35 conduct of special medical examinations to determine permanent
36 disabilities, including, but not limited to:

37 (a) The qualifications of persons conducting the examinations;

1 (b) The criteria for conducting the examinations, including
2 guidelines for the appropriate treatment of injured workers during the
3 examination; and

4 (c) The content of examination reports.

5 (2) Within the appropriate scope of practice, chiropractors
6 licensed under chapter 18.25 RCW may conduct special medical
7 examinations to determine permanent disabilities in consultation with
8 physicians licensed under chapter 18.57 or 18.71 RCW. The department,
9 in its discretion, may request that a special medical examination be
10 conducted by a single chiropractor if the department determines that
11 the sole issues involved in the examination are within the scope of
12 practice under chapter 18.25 RCW. However, nothing in this section
13 authorizes the use as evidence before the board of a chiropractor's
14 determination of the extent of a worker's permanent disability if the
15 determination is not requested by the department.

16 (3) The ((department)) commissioner shall investigate the amount of
17 examination fees received by persons conducting special medical
18 examinations to determine permanent disabilities, including total
19 compensation received for examinations of department and self-insured
20 claimants, and establish compensation guidelines and compensation
21 reporting criteria.

22 (4) The ((department)) commissioner shall investigate the level of
23 compliance of self-insurers with the requirement of full reporting of
24 claims information to the department, particularly with respect to
25 medical examinations, and develop effective enforcement procedures or
26 recommendations for legislation if needed.

27 **Sec. 78.** RCW 51.32.114 and 1988 c 114 s 3 are each amended to read
28 as follows:

29 The ((department)) commissioner shall examine the credentials of
30 persons conducting special medical examinations and shall monitor the
31 quality and objectivity of examinations and reports for the department
32 and self-insured claimants. The ((department)) commissioner shall
33 adopt rules to ensure that examinations are performed only by qualified
34 persons ((meeting department standards)).

35 **Sec. 79.** RCW 51.32.135 and 1977 ex.s. c 350 s 52 are each amended
36 to read as follows:

1 In pension cases when a worker or beneficiary closes his or her
2 claim by full conversion to a lump sum or in any other manner as
3 provided in RCW 51.32.130 and 51.32.150, such action shall be
4 conclusive and effective to bar any subsequent application or claim
5 relative thereto by the worker or any beneficiary which would otherwise
6 exist had such person not elected to close the claim: PROVIDED, The
7 ((director)) department may require the spouse of such worker to
8 consent in writing as a prerequisite to conversion and/or the closing
9 of such claim.

10 **Sec. 80.** RCW 51.32.160 and 1995 c 253 s 2 are each amended to read
11 as follows:

12 (1)(a) If aggravation, diminution, or termination of disability
13 takes place, the ((director)) department may, upon the application of
14 the beneficiary, made within seven years from the date the first
15 closing order becomes final, or at any time upon his or her own motion,
16 readjust the rate of compensation in accordance with the rules in this
17 section provided for the same, or in a proper case terminate the
18 payment: PROVIDED, That the ((director)) department may, upon
19 application of the worker made at any time, provide proper and
20 necessary medical and surgical services as authorized under RCW
21 51.36.010. The department shall promptly mail a copy of the
22 application to the employer at the employer's last known address as
23 shown by the records of the department.

24 (b) "Closing order" as used in this section means an order based on
25 factors which include medical recommendation, advice, or examination.

26 (c) Applications for benefits where the claim has been closed
27 without medical recommendation, advice, or examination are not subject
28 to the seven year limitation of this section. The preceding sentence
29 shall not apply to any closing order issued prior to July 1, 1981.
30 First closing orders issued between July 1, 1981, and July 1, 1985,
31 shall, for the purposes of this section only, be deemed issued on July
32 1, 1985. The time limitation of this section shall be ten years in
33 claims involving loss of vision or function of the eyes.

34 (d) If an order denying an application to reopen filed on or after
35 July 1, 1988, is not issued within ninety days of receipt of such
36 application by the self-insured employer or the department, such

1 application shall be deemed granted. However, for good cause, the
2 department may extend the time for making the final determination on
3 the application for an additional sixty days.

4 (2) If a worker receiving a pension for total disability returns to
5 gainful employment for wages, the (~~director~~) department may suspend
6 or terminate the rate of compensation established for the disability
7 without producing medical evidence that shows that a diminution of the
8 disability has occurred.

9 (3) No act done or ordered to be done by the director, or the
10 department prior to the signing and filing in the matter of a written
11 order for such readjustment shall be grounds for such readjustment.

12 **Sec. 81.** RCW 51.32.185 and 2007 c 490 s 2 are each amended to read
13 as follows:

14 (1) In the case of firefighters as defined in RCW 41.26.030(~~(+4)~~)
15 (16) (a), (b), and (c) who are covered under Title 51 RCW and
16 firefighters, including supervisors, employed on a full-time, fully
17 compensated basis as a firefighter of a private sector employer's fire
18 department that includes over fifty such firefighters, there shall
19 exist a prima facie presumption that: (a) Respiratory disease; (b) any
20 heart problems, experienced within seventy-two hours of exposure to
21 smoke, fumes, or toxic substances, or experienced within twenty-four
22 hours of strenuous physical exertion due to firefighting activities;
23 (c) cancer; and (d) infectious diseases are occupational diseases under
24 RCW 51.08.140. This presumption of occupational disease may be
25 rebutted by a preponderance of the evidence. Such evidence may
26 include, but is not limited to, use of tobacco products, physical
27 fitness and weight, lifestyle, hereditary factors, and exposure from
28 other employment or nonemployment activities.

29 (2) The presumptions established in subsection (1) of this section
30 shall be extended to an applicable member following termination of
31 service for a period of three calendar months for each year of
32 requisite service, but may not extend more than sixty months following
33 the last date of employment.

34 (3) The presumption established in subsection (1)(c) of this
35 section shall only apply to any active or former firefighter who has
36 cancer that develops or manifests itself after the firefighter has
37 served at least ten years and who was given a qualifying medical

1 examination upon becoming a firefighter that showed no evidence of
2 cancer. The presumption within subsection (1)(c) of this section shall
3 only apply to prostate cancer diagnosed prior to the age of fifty,
4 primary brain cancer, malignant melanoma, leukemia, non-Hodgkin's
5 lymphoma, bladder cancer, ureter cancer, colorectal cancer, multiple
6 myeloma, testicular cancer, and kidney cancer.

7 (4) The presumption established in subsection (1)(d) of this
8 section shall be extended to any firefighter who has contracted any of
9 the following infectious diseases: Human immunodeficiency
10 virus/acquired immunodeficiency syndrome, all strains of hepatitis,
11 meningococcal meningitis, or mycobacterium tuberculosis.

12 (5) Beginning July 1, 2003, this section does not apply to a
13 firefighter who develops a heart or lung condition and who is a regular
14 user of tobacco products or who has a history of tobacco use. The
15 ~~((department))~~ commissioner, using existing medical research, shall
16 define in rule the extent of tobacco use that shall exclude a
17 firefighter from the provisions of this section.

18 (6) For purposes of this section, "firefighting activities" means
19 fire suppression, fire prevention, emergency medical services, rescue
20 operations, hazardous materials response, aircraft rescue, and training
21 and other assigned duties related to emergency response.

22 (7)(a) When a determination involving the presumption established
23 in this section is appealed to the board of industrial insurance
24 appeals and the final decision allows the claim for benefits, the board
25 of industrial insurance appeals shall order that all reasonable costs
26 of the appeal, including attorney fees and witness fees, be paid to the
27 firefighter or his or her beneficiary by the opposing party.

28 (b) When a determination involving the presumption established in
29 this section is appealed to any court and the final decision allows the
30 claim for benefits, the court shall order that all reasonable costs of
31 the appeal, including attorney fees and witness fees, be paid to the
32 firefighter or his or her beneficiary by the opposing party.

33 ~~((c) When reasonable costs of the appeal must be paid by the
34 department under this section in a state fund case, the costs shall be
35 paid from the accident fund and charged to the costs of the claim.))~~

36 **Sec. 82.** RCW 51.32.190 and 1996 c 58 s 2 are each amended to read
37 as follows:

1 (1) If the self-insurer denies a claim for compensation, written
2 notice of such denial, clearly informing the claimant of the reasons
3 therefor and that the director will rule on the matter shall be mailed
4 or given to the claimant and the director within thirty days after the
5 self-insurer has notice of the claim.

6 (2) Until such time as the (~~department~~) commissioner has entered
7 an order in a disputed case acceptance of compensation by the claimant
8 shall not be considered a binding determination of his or her rights
9 under this title. Likewise the payment of compensation shall not be
10 considered a binding determination of the obligations of the self-
11 insurer as to future compensation payments.

12 (3) Upon making the first payment of income benefits, the self-
13 insurer shall immediately notify the director in accordance with a form
14 to be prescribed by the director. Upon request of the (~~department~~
15 ~~a form prescribed by the department~~) commissioner, the self-insurer
16 shall submit a record of the payment of income benefits including
17 initial, termination or terminations, and change or changes to the
18 benefits. Where temporary disability compensation is payable, the
19 first payment thereof shall be made within fourteen days after notice
20 of claim and shall continue at regular semimonthly or biweekly
21 intervals.

22 (4) If, after the payment of compensation without an award, the
23 self-insurer elects to controvert the right to compensation, the
24 payment of compensation shall not be considered a binding determination
25 of the obligations of the self-insurer as to future compensation
26 payments. The acceptance of compensation by the worker or his or her
27 beneficiaries shall not be considered a binding determination of their
28 rights under this title.

29 (5) The director: (a) May, upon his or her own initiative at any
30 time in a case in which payments are being made without an award; and
31 (b) shall, upon receipt of information from any person claiming to be
32 entitled to compensation, from the self-insurer, or otherwise that the
33 right to compensation is controverted, or that payment of compensation
34 has been opposed, stopped or changed, whether or not claim has been
35 filed, promptly make such inquiry as circumstances require, cause such
36 medical examinations to be made, hold such hearings, require the
37 submission of further information, make such orders, decisions or

1 awards, and take such further action as he or she considers will
2 properly determine the matter and protect the rights of all parties.

3 (6) The director, upon his or her own initiative, may make such
4 inquiry as circumstances require or is necessary to protect the rights
5 of all the parties and he or she may enact rules and regulations
6 providing for procedures to ensure fair and prompt handling by
7 self-insurers of the claims of workers and beneficiaries.

8 **Sec. 83.** RCW 51.32.195 and 1987 c 290 s 1 are each amended to read
9 as follows:

10 On any industrial injury claim where the self-insured employer or
11 injured worker has requested a determination by the ((department))
12 commissioner, the self-insurer must submit all medical reports and any
13 other specified information not previously submitted to the
14 ((department)) commissioner. When the ((department)) commissioner
15 requests information from a self-insurer by certified mail, the self-
16 insurer shall submit all information in its possession concerning a
17 claim within ten working days from the date of receipt of such
18 certified notice.

19 **Sec. 84.** RCW 51.32.210 and 1977 ex.s. c 350 s 55 are each amended
20 to read as follows:

21 Claims of injured workers of employers who have secured the payment
22 of compensation ((by insuring with the department)) shall be promptly
23 acted upon by the department. Where temporary disability compensation
24 is payable, the first payment thereof shall be mailed within fourteen
25 days after receipt of the claim ((at the department's offices in
26 Olympia)) and shall continue at regular semimonthly intervals. The
27 payment of this or any other benefits under this title, prior to the
28 entry of an order ((by the department)) in accordance with RCW
29 51.52.050 ((as now or hereafter amended)), shall be not considered a
30 binding determination of the obligations of the department under this
31 title. The acceptance of compensation by the worker or his or her
32 beneficiaries prior to such order shall likewise not be considered a
33 binding determination of their rights under this title.

34 **Sec. 85.** RCW 51.32.215 and 1995 c 276 s 1 are each amended to read
35 as follows:

1 (1)(a) If the worker or beneficiary (~~(in a state fund claim)~~)
2 prevails in an appeal by any party to the board or the court, the
3 department shall comply with the board or court's order with respect to
4 the payment of compensation within the later of the following time
5 periods:

6 (i) Sixty days after the compensation order has become final and is
7 not subject to review or appeal; or

8 (ii) If the order has become final and is not subject to review or
9 appeal and the department has, within the period specified in (a)(i) of
10 this subsection, requested the filing by the worker or beneficiary of
11 documents necessary to make payment of compensation, sixty days after
12 all requested documents are filed with the department.

13 The (~~department~~) commissioner may extend the sixty-day time
14 period for an additional thirty days for good cause.

15 (b) If the department fails to comply with (a) of this subsection,
16 any person entitled to compensation under the order may institute
17 proceedings for injunctive or other appropriate relief for enforcement
18 of the order. These proceedings may be instituted in the superior
19 court for the county in which the claimant resides, or, if the claimant
20 is not then a resident of this state, in the superior court for
21 Thurston county.

22 (2) In a proceeding under this section, the court shall enforce
23 obedience to the order by proper means, enjoining compliance upon the
24 person obligated to comply with the compensation order. The court may
25 issue such writs and processes as are necessary to carry out its orders
26 and may award a penalty of up to one thousand dollars to the person
27 entitled to compensation under the order.

28 (3) A proceeding under this section does not preclude other methods
29 of enforcement provided for in this title.

30 **Sec. 86.** RCW 51.32.240 and 2008 c 280 s 2 are each amended to read
31 as follows:

32 (1)(a) Whenever any payment of benefits under this title is made
33 because of clerical error, mistake of identity, innocent
34 misrepresentation by or on behalf of the recipient thereof mistakenly
35 acted upon, or any other circumstance of a similar nature, all not
36 induced by willful misrepresentation, the recipient thereof shall repay
37 it and recoupment may be made from any future payments due to the

1 recipient on any claim (~~with the state fund or self-insurer, as the~~
2 ~~case may be~~). The department or self-insurer, as the case may be,
3 must make claim for such repayment or recoupment within one year of the
4 making of any such payment or it will be deemed any claim therefor has
5 been waived.

6 (b) Except as provided in subsections (3), (4), and (5) of this
7 section, the department may only assess an overpayment of benefits
8 because of adjudicator error when the order upon which the overpayment
9 is based is not yet final as provided in RCW 51.52.050 and 51.52.060.
10 "Adjudicator error" includes the failure to consider information in the
11 claim file, failure to secure adequate information, or an error in
12 judgment.

13 (c) The director, pursuant to rules adopted in accordance with the
14 procedures provided in the administrative procedure act, chapter 34.05
15 RCW, may exercise his or her discretion to waive, in whole or in part,
16 the amount of any such timely claim where the recovery would be against
17 equity and good conscience.

18 (2) Whenever the department or self-insurer fails to pay benefits
19 because of clerical error, mistake of identity, or innocent
20 misrepresentation, all not induced by recipient willful
21 misrepresentation, the recipient may request an adjustment of benefits
22 to be paid (~~from the state fund or by the self-insurer, as the case~~
23 ~~may be~~), subject to the following:

24 (a) The recipient must request an adjustment in benefits within one
25 year from the date of the incorrect payment or it will be deemed any
26 claim therefore has been waived.

27 (b) The recipient may not seek an adjustment of benefits because of
28 adjudicator error. Adjustments due to adjudicator error are addressed
29 by the filing of a written request for reconsideration with the
30 department (~~of labor and industries~~) or an appeal with the board of
31 industrial insurance appeals within sixty days from the date the order
32 is communicated as provided in RCW 51.52.050. "Adjudicator error"
33 includes the failure to consider information in the claim file, failure
34 to secure adequate information, or an error in judgment.

35 (3) Whenever the department issues an order rejecting a claim for
36 benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for
37 temporary disability benefits has been paid by a self-insurer pursuant
38 to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the

1 recipient thereof shall repay such benefits and recoupment may be made
2 from any future payments due to the recipient on any claim (~~with the~~
3 ~~state fund or self-insurer, as the case may be~~). The director, under
4 rules adopted in accordance with the procedures provided in the
5 administrative procedure act, chapter 34.05 RCW, may exercise
6 discretion to waive, in whole or in part, the amount of any such
7 payments where the recovery would be against equity and good
8 conscience.

9 (4) Whenever any payment of benefits under this title has been made
10 pursuant to an adjudication by the department or by order of the board
11 or any court and timely appeal therefrom has been made where the final
12 decision is that any such payment was made pursuant to an erroneous
13 adjudication, the recipient thereof shall repay it and recoupment may
14 be made from any future payments due to the recipient on any claim
15 (~~whether state fund or self-insured~~).

16 (a) The director, pursuant to rules adopted in accordance with the
17 procedures provided in the administrative procedure act, chapter 34.05
18 RCW, may exercise discretion to waive, in whole or in part, the amount
19 of any such payments where the recovery would be against equity and
20 good conscience. However, if the director waives in whole or in part
21 any such payments due a self-insurer, the self-insurer shall be
22 reimbursed the amount waived from the self-insured employer overpayment
23 reimbursement fund.

24 (b) (~~The department shall collect information regarding self-~~
25 ~~insured claim overpayments resulting from final decisions of the board~~
26 ~~and the courts, and recoup such overpayments on behalf of the self-~~
27 ~~insurer from any open, new, or reopened state fund or self-insured~~
28 ~~claims. The department shall forward the amounts collected to the~~
29 ~~self-insurer to whom the payment is owed. The department may provide~~
30 ~~information as needed to any self-insurers from whom payments may be~~
31 ~~collected on behalf of the department or another self-insurer.~~
32 ~~Notwithstanding RCW 51.32.040, any self-insurer requested by the~~
33 ~~department to forward payments to the department pursuant to this~~
34 ~~subsection shall pay the department directly. The department shall~~
35 ~~credit the amounts recovered to the appropriate fund, or forward~~
36 ~~amounts collected to the appropriate self-insurer, as the case may be.~~

37 (e)) If a self-insurer is not fully reimbursed within twenty-four
38 months of the first attempt at recovery through the collection process

1 pursuant to this subsection and by means of processes pursuant to
2 subsection (6) of this section, the self-insurer shall be reimbursed
3 for the remainder of the amount due from the self-insured employer
4 overpayment reimbursement fund.

5 ~~((d))~~ (c) For purposes of this subsection, "recipient" does not
6 include health service providers whose treatment or services were
7 authorized by the department or self-insurer.

8 ~~((e))~~ (d) The department or self-insurer shall first attempt
9 recovery of overpayments for health services from any entity that
10 provided health insurance to the worker to the extent that the health
11 insurance entity would have provided health insurance benefits but for
12 workers' compensation coverage.

13 (5)(a) Whenever any payment of benefits under this title has been
14 induced by willful misrepresentation the recipient thereof shall repay
15 any such payment together with a penalty of fifty percent of the total
16 of any such payments and the amount of such total sum may be recouped
17 from any future payments due to the recipient on any claim ~~((with the
18 state fund or self-insurer))~~ against whom the willful misrepresentation
19 was committed, as the case may be, and the amount of such penalty shall
20 be placed in the supplemental pension fund. Such repayment or
21 recoupment must be demanded or ordered within three years of the
22 discovery of the willful misrepresentation.

23 (b) For purposes of this subsection (5), it is willful
24 misrepresentation for a person to obtain payments or other benefits
25 under this title in an amount greater than that to which the person
26 otherwise would be entitled. Willful misrepresentation includes:

27 (i) Willful false statement; or

28 (ii) Willful misrepresentation, omission, or concealment of any
29 material fact.

30 (c) For purposes of this subsection (5), "willful" means a
31 conscious or deliberate false statement, misrepresentation, omission,
32 or concealment of a material fact with the specific intent of
33 obtaining, continuing, or increasing benefits under this title.

34 (d) For purposes of this subsection (5), failure to disclose a
35 work-type activity must be willful in order for a misrepresentation to
36 have occurred.

37 (e) For purposes of this subsection (5), a material fact is one
38 which would result in additional, increased, or continued benefits,

1 including but not limited to facts about physical restrictions, or
2 work-type activities which either result in wages or income or would be
3 reasonably expected to do so. Wages or income include the receipt of
4 any goods or services. For a work-type activity to be reasonably
5 expected to result in wages or income, a pattern of repeated activity
6 must exist. For those activities that would reasonably be expected to
7 result in wages or produce income, but for which actual wage or income
8 information cannot be reasonably determined, the (~~department~~)
9 commissioner shall impute wages pursuant to RCW 51.08.178(4).

10 (6) The worker, beneficiary, or other person affected thereby shall
11 have the right to contest an order assessing an overpayment pursuant to
12 this section in the same manner and to the same extent as provided
13 under RCW 51.52.050 and 51.52.060. In the event such an order becomes
14 final under chapter 51.52 RCW and notwithstanding the provisions of
15 subsections (1) through (5) of this section, the (~~director, director's~~
16 ~~designee,~~) department or self-insurer may file with the clerk in any
17 county within the state a warrant in the amount of the sum representing
18 the unpaid overpayment and/or penalty plus interest accruing from the
19 date the order became final. The clerk of the county in which the
20 warrant is filed shall immediately designate a superior court cause
21 number for such warrant and the clerk shall cause to be entered in the
22 judgment docket under the superior court cause number assigned to the
23 warrant, the name of the worker, beneficiary, or other person mentioned
24 in the warrant, the amount of the unpaid overpayment and/or penalty
25 plus interest accrued, and the date the warrant was filed. The amount
26 of the warrant as docketed shall become a lien upon the title to and
27 interest in all real and personal property of the worker, beneficiary,
28 or other person against whom the warrant is issued, the same as a
29 judgment in a civil case docketed in the office of such clerk. The
30 sheriff shall then proceed in the same manner and with like effect as
31 prescribed by law with respect to execution or other process issued
32 against rights or property upon judgment in the superior court. Such
33 warrant so docketed shall be sufficient to support the issuance of
34 writs of garnishment in favor of the department or self-insurer in the
35 manner provided by law in the case of judgment, wholly or partially
36 unsatisfied. The clerk of the court shall be entitled to a filing fee
37 under RCW 36.18.012(10), which shall be added to the amount of the

1 warrant. A copy of such warrant shall be mailed to the worker,
2 beneficiary, or other person within three days of filing with the
3 clerk.

4 The director, (~~director's designee~~) department, or self-insurer
5 may issue to any person, firm, corporation, municipal corporation,
6 political subdivision of the state, public corporation, or agency of
7 the state, a notice to withhold and deliver property of any kind if
8 there is reason to believe that there is in the possession of such
9 person, firm, corporation, municipal corporation, political subdivision
10 of the state, public corporation, or agency of the state, property that
11 is due, owing, or belonging to any worker, beneficiary, or other person
12 upon whom a warrant has been served for payments due the department or
13 self-insurer. The notice and order to withhold and deliver shall be
14 served by certified mail accompanied by an affidavit of service by
15 mailing or served by the sheriff of the county, or by the sheriff's
16 deputy, or by any authorized representative of the director,
17 (~~director's designee~~) department, or self-insurer. Any person, firm,
18 corporation, municipal corporation, political subdivision of the state,
19 public corporation, or agency of the state upon whom service has been
20 made shall answer the notice within twenty days exclusive of the day of
21 service, under oath and in writing, and shall make true answers to the
22 matters inquired or in the notice and order to withhold and deliver.
23 In the event there is in the possession of the party named and served
24 with such notice and order, any property that may be subject to the
25 claim of the department or self-insurer, such property shall be
26 delivered (~~forthwith~~) immediately to the director, the director's
27 authorized representative, or self-insurer upon demand. If the party
28 served and named in the notice and order fails to answer the notice and
29 order within the time prescribed in this section, the court may, after
30 the time to answer such order has expired, render judgment by default
31 against the party named in the notice for the full amount, plus costs,
32 claimed by the director, (~~director's designee~~) department, or self-
33 insurer in the notice. In the event that a notice to withhold and
34 deliver is served upon an employer and the property found to be subject
35 thereto is wages, the employer may assert in the answer all exemptions
36 provided for by chapter 6.27 RCW to which the wage earner may be
37 entitled.

1 This subsection shall only apply to orders assessing an overpayment
2 which are issued on or after July 28, 1991: PROVIDED, That this
3 subsection shall apply retroactively to all orders assessing an
4 overpayment resulting from fraud, civil or criminal.

5 (7) Orders assessing an overpayment which are issued on or after
6 July 28, 1991, shall include a conspicuous notice of the collection
7 methods available to the department or self-insurer.

8 **Sec. 87.** RCW 51.32.242 and 2008 c 280 s 3 are each amended to read
9 as follows:

10 (1) Except as provided in subsection (2) of this section, each
11 self-insured employer shall retain from the earnings of each of its
12 workers that amount as shall be fixed from time to time by the
13 director, the basis for measuring said amount to be determined by the
14 director. These moneys shall only be retained from employees and
15 remitted to the ((~~department~~)) commissioner in such manner and at such
16 intervals as ((~~the department directs~~)) directed and shall be placed in
17 the self-insured employer overpayment reimbursement fund. The moneys
18 so collected shall be used exclusively for reimbursement to the reserve
19 fund and to self-insured employers for benefits overpaid during the
20 pendency of board or court appeals in which the self-insured employer
21 prevails and has not recovered, and shall be no more than necessary to
22 make such payments on a current basis.

23 (2) None of the amount assessed for the employer overpayment
24 reimbursement fund under this section may be retained from the earnings
25 of workers covered under RCW 51.16.210.

26 **Sec. 88.** RCW 51.32.380 and 2003 c 379 s 26 are each amended to
27 read as follows:

28 If the department ((~~of labor and industries~~)) has received notice
29 that an injured worker entitled to benefits payable under this chapter
30 is in the custody of the department of corrections pursuant to a
31 conviction and sentence, the department shall send all such benefits to
32 the worker in care of the department of corrections, except those
33 benefits payable to a beneficiary as provided in RCW 51.32.040 (3)(c)
34 and (4). Failure of the department to send such benefits to the
35 department of corrections shall not result in liability to any party
36 for either department.

1 **Sec. 89.** RCW 51.36.010 and 2007 c 134 s 1 are each amended to read
2 as follows:

3 Upon the occurrence of any injury to a worker entitled to
4 compensation under the provisions of this title, he or she shall
5 receive proper and necessary medical and surgical services at the hands
6 of a physician or licensed advanced registered nurse practitioner of
7 his or her own choice, if conveniently located, and proper and
8 necessary hospital care and services during the period of his or her
9 disability from such injury. The ~~((department for state fund claims))~~
10 insurer shall pay ~~((, in accordance with the department's fee~~
11 ~~schedule,))~~ for any alleged injury for which a worker files a claim,
12 any initial prescription drugs provided in relation to that initial
13 visit, without regard to whether the worker's claim for benefits is
14 allowed. In all accepted claims, treatment shall be limited in point
15 of duration as follows:

16 In the case of permanent partial disability, not to extend beyond
17 the date when compensation shall be awarded him or her, except when the
18 worker returned to work before permanent partial disability award is
19 made, in such case not to extend beyond the time when monthly
20 allowances to him or her shall cease; in case of temporary disability
21 not to extend beyond the time when monthly allowances to him or her
22 shall cease: PROVIDED, That after any injured worker has returned to
23 his or her work his or her medical and surgical treatment may be
24 continued if, and so long as, such continuation is ~~((deemed necessary~~
25 ~~by the supervisor of industrial insurance to be))~~ necessary to his or
26 her more complete recovery; in case of a permanent total disability not
27 to extend beyond the date on which a lump sum settlement is made with
28 him or her or he or she is placed upon the permanent pension roll:
29 PROVIDED, HOWEVER, That the ~~((supervisor of industrial insurance,~~
30 ~~solely in his or her discretion,))~~ insurer may authorize continued
31 medical and surgical treatment for conditions previously accepted ~~((by~~
32 ~~the department))~~ when such medical and surgical treatment is ~~((deemed))~~
33 necessary ~~((by the supervisor of industrial insurance))~~ to protect such
34 worker's life or provide for the administration of medical and
35 therapeutic measures including payment of prescription medications, but
36 not including those controlled substances currently scheduled by the
37 state board of pharmacy as Schedule I, II, III, or IV substances under
38 chapter 69.50 RCW, which are necessary to alleviate continuing pain

1 which results from the industrial injury. In order to authorize such
2 continued treatment the written order of the (~~supervisor of industrial~~
3 ~~insurance~~) director issued in advance of the continuation shall be
4 necessary.

5 The (~~supervisor of industrial insurance, the supervisor's~~
6 ~~designee, or a self~~)insurer, in his or her sole discretion, may
7 authorize inoculation or other immunological treatment in cases in
8 which a work-related activity has resulted in probable exposure of the
9 worker to a potential infectious occupational disease. Authorization
10 of such treatment does not bind the (~~department or self~~)insurer in
11 any adjudication of a claim by the same worker or the worker's
12 beneficiary for an occupational disease.

13 **Sec. 90.** RCW 51.36.015 and 1994 c 94 s 1 are each amended to read
14 as follows:

15 Subject to the other provisions of this title, the health services
16 that are available to an injured worker under RCW 51.36.010 include
17 chiropractic care and evaluation. For the purposes of assisting the
18 (~~department~~) insurer in making claims determinations, an injured
19 worker may be required by the (~~department~~) insurer to undergo
20 examination by a chiropractor licensed under chapter 18.25 RCW.

21 **Sec. 91.** RCW 51.36.020 and 2008 c 54 s 1 are each amended to read
22 as follows:

23 (1) When the injury to any worker is so serious as to require his
24 or her being taken from the place of injury to a place of treatment,
25 his or her employer shall, at the expense of the (~~medical aid fund, or~~
26 ~~self-insurer, as the case may be~~) insurer, furnish transportation to
27 the nearest place of proper treatment.

28 (2) Every worker whose injury results in the loss of one or more
29 limbs or eyes shall be provided with proper artificial substitutes and
30 every worker, who suffers an injury to an eye producing an error of
31 refraction, shall be once provided proper and properly equipped lenses
32 to correct such error of refraction and his or her disability rating
33 shall be based upon the loss of sight before correction.

34 (3) Every worker whose accident results in damage to or destruction
35 of an artificial limb, eye, or tooth, shall have same repaired or
36 replaced.

1 (4) Every worker whose hearing aid or eyeglasses or lenses are
2 damaged, destroyed, or lost as a result of an industrial accident shall
3 have the same restored or replaced. The ~~((department or self-))~~insurer
4 shall be liable only for the cost of restoring damaged hearing aids or
5 eyeglasses to their condition at the time of the accident.

6 (5)(a) All mechanical appliances necessary in the treatment of an
7 injured worker, such as braces, belts, casts, and crutches, shall be
8 provided and all mechanical appliances required as permanent equipment
9 after treatment has been completed shall continue to be provided or
10 replaced without regard to the date of injury or date treatment was
11 completed, notwithstanding any other provision of law.

12 (b) Injured workers shall be reimbursed for reasonable travel
13 expenses when travel is required in order to repair, replace, or
14 otherwise alter prosthetics, orthotics, or similar permanent mechanical
15 appliances after closure of the claim. This subsection (5)(b) does not
16 include travel for the repair or replacement of hearing aid devices.

17 (6) A worker, whose injury is of such short duration as to bring
18 him or her within the time limit provisions of RCW 51.32.090, shall
19 nevertheless receive during the omitted period medical, surgical, and
20 hospital care and service and transportation under the provisions of
21 this chapter.

22 (7) Whenever ~~((in the sole discretion of the supervisor))~~ it is
23 reasonable and necessary to provide residence modifications necessary
24 to meet the needs and requirements of the worker who has sustained
25 catastrophic injury, the ~~((department or self-))~~insurer ~~((may be
26 ordered to))~~ shall pay an amount not to exceed the state's average
27 annual wage for one year as determined under RCW 50.04.355, as now
28 existing or hereafter amended, toward the cost of such modifications or
29 construction. Such payment shall only be made for the construction or
30 modification of a residence in which the injured worker resides. Only
31 one residence of any worker may be modified or constructed under this
32 subsection~~((, although the supervisor may order more than one payment
33 for any one home, up to the maximum amount permitted by this section))~~.

34 (8)(a) Whenever ~~((in the sole discretion of the supervisor))~~ it is
35 reasonable and necessary to modify a motor vehicle owned by a worker
36 who has become an amputee or becomes paralyzed because of an industrial
37 injury, the ~~((supervisor may order))~~ insurer shall pay up to fifty

1 percent of the state's average annual wage for one year, as determined
2 under RCW 50.04.355, (~~to be paid by the department or self-insurer~~)
3 toward the costs thereof.

4 (b) (~~In the sole discretion of the supervisor after his or her~~
5 ~~review,~~) The amount paid under this subsection may be increased by no
6 more than four thousand dollars by written order of the (~~supervisor~~)
7 department.

8 (9) The benefits provided by subsections (7) and (8) of this
9 section are available to any otherwise eligible worker regardless of
10 the date of industrial injury.

11 **Sec. 92.** RCW 51.36.022 and 2005 c 411 s 1 are each amended to read
12 as follows:

13 (1) The legislature finds that there is a need to clarify the
14 process and standards under which (~~the department~~) an insurer
15 provides residence modification assistance to workers who have
16 sustained catastrophic injury.

17 (2) The director shall adopt rules that take effect no later than
18 nine months after July 24, 2005, to establish guidelines and processes
19 for residence modification pursuant to RCW 51.36.020(7).

20 (3) In developing rules under this section, the director shall
21 consult with interested persons, including persons with expertise in
22 the rehabilitation of catastrophically disabled individuals and
23 modifications for adaptive housing.

24 (4) These rules must address at least the following:

25 (a) The process for a catastrophically injured worker to access the
26 residence modification benefits provided by RCW 51.36.020; and

27 (b) How the (~~department~~) insurer may address the needs and
28 preferences of the individual worker on a case-by-case basis taking
29 into account information provided by the injured worker. For purposes
30 of determining the needs and requirements of the worker under RCW
31 51.36.020, including whether a modification is medically necessary, the
32 (~~department~~) insurer must consider all available information
33 regarding the medical condition and physical restrictions of the
34 injured worker, including the opinion of the worker's attending health
35 services provider.

36 (5) The rules should be based upon nationally accepted guidelines
37 and publications addressing adaptive residential housing. The

1 department must consider the guidelines established by the United
2 States department of veterans affairs in their publication entitled
3 "Handbook for Design: Specially Adapted Housing," and the
4 recommendations published in "The Accessible Housing Design File" by
5 Barrier Free Environments, Inc.

6 (6) In developing rules under this section, the director shall
7 consult with other persons with an interest in improving standards for
8 adaptive housing.

9 (7) The director shall report by December 2007 to the appropriate
10 committees of the legislature on the rules adopted under this section.

11 **Sec. 93.** RCW 51.36.040 and 1977 ex.s. c 350 s 59 are each amended
12 to read as follows:

13 The benefits of Title 51 RCW shall be provided to each worker
14 receiving an injury, as defined therein, during the course of his or
15 her employment and also during his or her lunch period as established
16 by the employer while on the jobsite. The jobsite shall consist of the
17 premises as are occupied, used or contracted for by the employer for
18 the business of work process in which the employer is then engaged:
19 PROVIDED, That if a worker by reason of his or her employment leaves
20 such jobsite under the direction, control or request of the employer
21 and if such worker is injured during his or her lunch period while so
22 away from the jobsite, the worker shall receive the benefits as
23 provided herein: AND PROVIDED FURTHER, That the employer need not
24 consider the lunch period in worker hours for the purpose of reporting
25 to the ((department)) insurer unless the worker is actually paid for
26 such period of time.

27 **Sec. 94.** RCW 51.36.060 and 2004 c 65 s 12 are each amended to read
28 as follows:

29 Physicians or licensed advanced registered nurse practitioners
30 examining or attending injured workers under this title shall comply
31 with rules and regulations adopted by the director, and shall make such
32 reports as may be requested by the ((department or self))insurer upon
33 the condition or treatment of any such worker, or upon any other
34 matters concerning such workers in their care. Except under RCW
35 49.17.210 and 49.17.250, all medical information in the possession or
36 control of any person and relevant to the particular injury in the

1 opinion of the department pertaining to any worker whose injury or
2 occupational disease is the basis of a claim under this title shall be
3 made available at any stage of the proceedings to the employer, the
4 claimant's representative, the insurer, and the department upon
5 request, and no person shall incur any legal liability by reason of
6 releasing such information.

7 **Sec. 95.** RCW 51.36.070 and 2001 c 152 s 2 are each amended to read
8 as follows:

9 Whenever the director or the (~~self-~~)insurer deems it necessary in
10 order to resolve any medical issue, a worker shall submit to
11 examination by a physician or physicians selected by the director or
12 the insurer, with the rendition of a report to the person ordering the
13 examination. The department or self-insurer shall provide the
14 physician performing an examination with all relevant medical records
15 from the worker's claim file. The director, in his or her discretion,
16 may charge the cost of such examination or examinations to the
17 (~~self-~~)insurer (~~or to the medical aid fund as the case may be~~).
18 The cost of said examination shall include payment to the worker of
19 reasonable expenses connected therewith.

20 **Sec. 96.** RCW 51.36.120 and 2005 c 274 s 325 are each amended to
21 read as follows:

22 When contracting for health care services and equipment, the
23 (~~department~~) state fund, upon request of a contractor, shall keep
24 confidential financial and valuable trade information, which shall be
25 exempt from public inspection and copying under chapter 42.56 RCW.

26 **Sec. 97.** RCW 51.36.140 and 2007 c 282 s 1 are each amended to read
27 as follows:

28 (1) The department shall establish an industrial insurance medical
29 advisory committee. The industrial insurance medical advisory
30 committee shall advise the department on matters related to the
31 provision of safe, effective, and cost-effective treatments for injured
32 workers, including but not limited to the development of practice
33 guidelines and coverage criteria, review of coverage decisions and
34 technology assessments, review of medical programs, and review of rules
35 pertaining to health care issues. The industrial insurance medical

1 advisory committee may provide peer review and advise and assist the
2 department in the resolution of controversies, disputes, and problems
3 between the department and the providers of medical care. The
4 industrial insurance medical advisory committee must consider the best
5 available scientific evidence and expert opinion of committee members.
6 The department may hire any expert or service or create an ad hoc
7 committee, group, or subcommittee it deems necessary to fulfill the
8 purposes of the industrial insurance medical advisory committee. In
9 addition, the industrial insurance medical advisory committee may
10 consult nationally recognized experts in evidence-based health care on
11 particularly controversial issues.

12 (2) The industrial insurance medical advisory committee is composed
13 of up to fourteen members appointed by the director. The members must
14 not include any department employees. The director shall select twelve
15 members from the nominations provided by statewide clinical groups,
16 specialties, and associations, including but not limited to the
17 following: Family or general practice, orthopedics, neurology,
18 neurosurgery, general surgery, physical medicine and rehabilitation,
19 psychiatry, internal medicine, osteopathic, pain management, and
20 occupational medicine. At least two members must be physicians who are
21 recognized for expertise in evidence-based medicine. The director may
22 choose up to two additional members, not necessarily from the
23 nominations submitted, who have expertise in occupational medicine.

24 (3) The industrial insurance medical advisory committee shall
25 choose its chair from among its membership.

26 (4) The members of the industrial insurance medical advisory
27 committee, including hired experts and any ad hoc group or
28 subcommittee: (a) Are immune from civil liability for any official
29 acts performed in good faith to further the purposes of the industrial
30 insurance medical advisory committee; and (b) may be compensated for
31 participation in the work of the industrial insurance medical advisory
32 committee in accordance with a personal services contract to be
33 executed after appointment and before commencement of activities
34 related to the work of the industrial insurance medical advisory
35 committee.

36 (5) The members of the industrial insurance medical advisory
37 committee shall disclose all potential financial conflicts of interest
38 including contracts with or employment by a manufacturer, provider, or

1 vendor of health technologies, drugs, medical devices, diagnostic
2 tools, or other medical services during their term or for eighteen
3 months before their appointment. As a condition of appointment, each
4 person must agree to the terms and conditions regarding conflicts of
5 interest as determined by the director.

6 (6) The industrial insurance medical advisory committee shall meet
7 at the times and places designated by the director and hold meetings
8 during the year as necessary to provide advice to the director.
9 Meetings of the industrial insurance medical advisory committee are
10 subject to chapter 42.30 RCW, the open public meetings act.

11 (7) The industrial insurance medical advisory committee shall
12 coordinate with the state health technology assessment program and
13 state prescription drug program as necessary. As provided by RCW
14 70.14.100 and 70.14.050, the decisions of the state health technology
15 assessment program and those of the state prescription drug program
16 hold greater weight than decisions made by the department's industrial
17 insurance medical advisory committee under Title 51 RCW.

18 (8) Neither the industrial insurance medical advisory committee nor
19 any group is an agency for purposes of chapter 34.05 RCW.

20 (9) The department shall provide administrative support to the
21 industrial insurance medical advisory committee and adopt rules to
22 carry out the purposes of this section.

23 (10) The chair and ranking minority member of the house of
24 representatives commerce and labor committee or the chair and ranking
25 minority member of the senate labor, commerce, research and development
26 committee, or successor committees, may request that the industrial
27 insurance medical advisory committee review a medical issue related to
28 industrial insurance and provide a written report to the house of
29 representatives commerce and labor committee and the senate labor,
30 commerce, research and development committee, or successor committees.
31 The industrial insurance medical advisory committee is not required to
32 act on the request.

33 ~~((11) The workers' compensation advisory committee may request
34 that the industrial insurance medical advisory committee consider
35 specific medical issues that have arisen multiple times during the work
36 of the workers' compensation advisory committee. The industrial
37 insurance medical advisory committee is not required to act on the
38 request.))~~

1 **Sec. 98.** RCW 51.36.150 and 2007 c 282 s 2 are each amended to read
2 as follows:

3 (1) The department shall establish an industrial insurance
4 chiropractic advisory committee. The industrial insurance chiropractic
5 advisory committee shall advise the department on matters related to
6 the provision of safe, effective, and cost-effective chiropractic
7 treatments for injured workers. The industrial insurance chiropractic
8 advisory committee may provide peer review and advise and assist the
9 department in the resolution of controversies, disputes, and problems
10 between the department and the providers of chiropractic care.

11 (2) The industrial insurance chiropractic advisory committee is
12 composed of up to nine members appointed by the director. The members
13 must not include any department employees. The director must consider
14 nominations from recognized statewide chiropractic groups such as the
15 Washington state chiropractic association. At least two members must
16 be chiropractors who are recognized for expertise in evidence-based
17 practice or occupational health.

18 (3) The industrial insurance chiropractic advisory committee shall
19 choose its chair from among its membership.

20 (4) The members of the industrial insurance chiropractic advisory
21 committee and any ad hoc group or subcommittee: (a) Are immune from
22 civil liability for any official acts performed in good faith to
23 further the purposes of the industrial insurance chiropractic advisory
24 committee; and (b) may be compensated for participation in the work of
25 the industrial insurance chiropractic advisory committee in accordance
26 with a personal services contract to be executed after appointment and
27 before commencement of activities related to the work of the industrial
28 insurance chiropractic advisory committee.

29 (5) The members of the industrial insurance chiropractic advisory
30 committee shall disclose all potential financial conflicts of interest
31 including contracts with or employment by a manufacturer, provider, or
32 vendor of health technologies, drugs, medical devices, diagnostic
33 tools, or other medical services during their term or for eighteen
34 months before their appointment. As a condition of appointment, each
35 person must agree to the terms and conditions regarding conflicts of
36 interest as determined by the director.

37 (6) The industrial insurance chiropractic advisory committee shall
38 meet at the times and places designated by the director and hold

1 meetings during the year as necessary to provide advice to the
2 director. Meetings of the industrial insurance chiropractic advisory
3 committee are subject to chapter 42.30 RCW, the open public meetings
4 act.

5 (7) The industrial insurance chiropractic advisory committee shall
6 coordinate with the state health technology assessment program and
7 state prescription drug program as necessary. As provided by RCW
8 70.14.100 and 70.14.050, the decisions of the state health technology
9 assessment program and those of the state prescription drug program
10 hold greater weight than decisions made by the department's industrial
11 insurance chiropractic advisory committee under Title 51 RCW.

12 (8) Neither the industrial insurance chiropractic advisory
13 committee nor any group is an agency for purposes of chapter 34.05 RCW.

14 (9) The department shall provide administrative support to the
15 industrial insurance chiropractic advisory committee and adopt rules to
16 carry out the purposes of this section.

17 (10) The chair and ranking minority member of the house of
18 representatives commerce and labor committee or the chair and ranking
19 minority member of the senate labor, commerce, research and development
20 committee, or successor committees, may request that the industrial
21 insurance chiropractic advisory committee review a medical issue
22 related to industrial insurance and provide a written report to the
23 house of representatives commerce and labor committee and the senate
24 labor, commerce, research and development committee, or successor
25 committees. The industrial insurance chiropractic advisory committee
26 is not required to act on the request.

27 ~~((11) The workers' compensation advisory committee may request
28 that the industrial insurance chiropractic advisory committee consider
29 specific medical issues that have arisen multiple times during the work
30 of the workers' compensation advisory committee. The industrial
31 insurance chiropractic advisory committee is not required to act on the
32 request.))~~

33 **Sec. 99.** RCW 51.44.040 and 2005 c 475 s 1 are each amended to read
34 as follows:

35 (1) There shall be in the office of the state treasurer, a fund to
36 be known and designated as the "second injury fund", which shall be
37 used only for the purpose of defraying charges against it as provided

1 in RCW 51.16.120 and 51.32.250. The fund shall be administered by the
2 director. The state treasurer shall be the custodian of the second
3 injury fund and shall be authorized to disburse moneys from it only
4 upon written order of the director.

5 (2) (~~Payments to~~) Assessments for the second injury fund (~~from~~
6 ~~the accident fund~~) shall be (~~made pursuant to~~) imposed and collected
7 from all insurers under rules adopted by the director.

8 (3)(a) (~~Assessments for the second injury fund shall be imposed on~~
9 ~~self-insurers pursuant to rules adopted by the director. Such~~) Rules
10 adopted under subsection (2) of this section shall provide for at least
11 the following:

12 (i) Except as provided in (a)(ii) of this subsection, the amount
13 assessed each (~~self-~~)insurer must be in the proportion that the
14 payments made from the fund on account of claims made against
15 (~~self-~~)insurers bears to the total sum of payments from the fund.

16 (ii) Except as provided in section 2, chapter 475, Laws of 2005,
17 beginning with assessments imposed on or after July 1, 2009, the
18 department shall experience rate the amount assessed each
19 (~~self-~~)insurer as long as the aggregate amount assessed is in the
20 proportion that the payments made from the fund on account of claims
21 made against (~~self-~~)insurers bears to the total sum of payments from
22 the fund. The experience rating factor must provide equal weight to
23 the ratio between expenditures made by the second injury fund for
24 claims of the (~~self-~~)insurer to the total expenditures made by the
25 second injury fund for claims of all (~~self-~~)insurers for the prior
26 three fiscal years and the ratio of workers' compensation claim
27 payments under this title made by the (~~self-~~)insurer to the total
28 worker's compensation claim payments made by all (~~self-~~)insurers
29 under this title for the prior three fiscal years. The weighted
30 average of these two ratios must be divided by the latter ratio to
31 arrive at the experience factor.

32 (b) For purposes of this subsection, "expenditures made by the
33 second injury fund" mean the costs and charges described under RCW
34 51.32.250 and 51.16.120 (3) and (4), and the amounts assessed to the
35 second injury fund as described under RCW 51.16.120(1). Under no
36 circumstances does "expenditures made by the second injury fund"
37 include any subsequent payments, assessments, or adjustments for

1 pensions, where the applicable second injury fund entitlement was
2 established outside of the three fiscal years.

3 **Sec. 100.** RCW 51.44.040 and 1982 c 63 s 14 are each amended to
4 read as follows:

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

13 (2) (~~Payments to~~) Assessments for the second injury fund (~~from~~
14 ~~the accident fund~~) shall be (~~made pursuant to rules and regulations~~
15 ~~promulgated~~) imposed and collected from all insurers under rules
16 adopted by the director.

17 (~~(3) Assessments for the second injury fund shall be imposed on~~
18 ~~self-insurers pursuant to rules and regulations promulgated by the~~
19 ~~director to ensure that self-insurers shall pay to such fund in the~~
20 ~~proportion that the payments made from such fund on account of claims~~
21 ~~made against self-insurers bears to the total sum of payments from such~~
22 ~~fund.~~)

23 **Sec. 101.** RCW 51.44.070 and 1992 c 124 s 1 are each amended to
24 read as follows:

25 (1) For every case resulting in death or permanent total disability
26 (~~the department shall transfer on its books from the accident fund of~~
27 ~~the proper class and/or appropriate account to the "reserve fund" a sum~~
28 ~~of money for that case equal to the estimated present cash value of the~~
29 ~~monthly payments provided for it, to be calculated upon the basis of an~~
30 ~~annuity covering the payments in this title provided to be made for the~~
31 ~~case. Such annuity values shall be based upon rates of mortality,~~
32 ~~disability, remarriage, and interest as determined by the department,~~
33 ~~taking into account the experience of the reserve fund in such~~
34 ~~respects.~~

35 Similarly, ~~a self-insurer in these circumstances~~) a self-insurer
36 shall pay into the reserve fund a sum of money (~~computed in the same~~

1 manner, and the disbursements therefrom shall be made as in other
2 cases)) for that case equal to the estimated present cash value of the
3 monthly payments in this title provided to be made for the case. The
4 annuity values shall be based on rates of mortality, disability,
5 remarriage, and interest as determined by the state insurance
6 commissioner, taking into account the commissioner's experience in
7 these respects.

8 (2) As an alternative to payment procedures (~~otherwise~~) provided
9 under (~~law~~) subsection (1) of this section, in the event of death or
10 permanent total disability to workers of self-insured employers, a
11 self-insured employer may upon establishment of such obligation file
12 with the department a bond, an assignment of account from a federally
13 or state chartered commercial banking institution authorized to conduct
14 business in the state of Washington, or purchase an annuity, in an
15 amount deemed by the department to be reasonably sufficient to insure
16 payment of the pension benefits provided by law. Any purchase of an
17 annuity shall be from an institution meeting the following minimum
18 requirements: (a) The institution must be rated no less than "A+" by
19 A.M. Best, and no less than "AA" by Moody's and by Standard & Poor's;
20 (b) the value of the assets of the institution must not be less than
21 ten billion dollars; (c) not more than ten percent of the institution's
22 assets may include bonds that are rated less than "BBB" by Moody's and
23 Standard & Poor's; (d) not more than five percent of the assets may be
24 held as equity in real estate; and (e) not more than twenty-five
25 percent of the assets may be first mortgages, and not more than five
26 percent may be second mortgages. The department shall adopt rules
27 governing assignments of account and annuities. Such rules shall
28 ensure that the funds are available if needed, even in the case of
29 failure of the banking institution, the institution authorized to
30 provide annuities, or the employer's business.

31 The annuity value for every such case shall be determined by the
32 department based upon the department's experience as to rates of
33 mortality, disability, remarriage, and interest. The amount of the
34 required bond, assignment of account, or annuity may be reviewed and
35 adjusted periodically by the department, based upon periodic
36 redeterminations by the department as to the outstanding annuity value
37 for the case.

1 Under such alternative, the department shall administer the payment
2 of this obligation to the beneficiary or beneficiaries. The department
3 shall be reimbursed for all such payments from the self-insured
4 employer through periodic charges not less than quarterly in a manner
5 to be determined by the director. The self-insured employer shall
6 additionally pay to the department a deposit equal to the first three
7 months' payments otherwise required under RCW 51.32.050 and 51.32.060.
8 Such deposit shall be placed in the reserve fund in accordance with RCW
9 51.44.140 and shall be returned to the respective self-insured employer
10 when monthly payments are no longer required for such particular
11 obligation.

12 If a self-insurer delays or refuses to reimburse the department
13 beyond fifteen days after the reimbursement charges become due, there
14 shall be a penalty paid by the self-insurer upon order of the director
15 of an additional amount equal to twenty-five percent of the amount then
16 due which shall be paid into the ((~~pension~~)) reserve fund. Such an
17 order shall conform to the requirements of RCW 51.52.050.

18 **Sec. 102.** RCW 51.44.090 and 1972 ex.s. c 43 s 31 are each amended
19 to read as follows:

20 The state treasurer shall keep accurate accounts of the reserve
21 fund and the investment and earnings thereof, to the end that the total
22 reserve fund shall at all times, as nearly as may be, be properly and
23 fully invested and, to meet current demands for pension or lump sum
24 payments, may, if necessary, make temporary loans to the reserve fund
25 out of the ((~~accident~~)) industrial insurance administrative fund,
26 repaying the same from the earnings of the reserve fund or from
27 collections of its investments or, if necessary, sales of the same.

28 **Sec. 103.** RCW 51.44.100 and 1990 c 80 s 1 are each amended to read
29 as follows:

30 Whenever, in the judgment of the state investment board, there
31 shall be in the ((~~accident fund, medical aid~~)) state fund, reserve
32 fund, or the supplemental pension fund, funds in excess of that amount
33 deemed by the state investment board to be sufficient to meet the
34 current expenditures properly payable therefrom, the state investment
35 board may invest and reinvest such excess funds in the manner
36 prescribed by RCW 43.84.150, and not otherwise.

1 The state investment board may give consideration to the investment
2 of excess funds in federally insured student loans made to persons in
3 vocational training or retraining or reeducation programs. The state
4 investment board may make such investments by purchasing from savings
5 and loan associations, commercial banks, mutual savings banks, credit
6 unions and other institutions authorized to be lenders under the
7 federally insured student loan act, organized under federal or state
8 law and operating in this state loans made by such institutions to
9 residents of the state of Washington particularly for the purpose of
10 vocational training or reeducation: PROVIDED, That the state
11 investment board shall purchase only that portion of any loan which is
12 guaranteed or insured by the United States of America, or by any agency
13 or instrumentality of the United States of America: PROVIDED FURTHER,
14 That the state investment board is authorized to enter into contracts
15 with such savings and loan associations, commercial banks, mutual
16 savings banks, credit unions, and other institutions authorized to be
17 lenders under the federally insured student loan act to service loans
18 purchased pursuant to this section at an agreed upon contract price.

19 **Sec. 104.** RCW 51.44.115 and 2005 c 387 s 1 are each amended to
20 read as follows:

21 (1) The department shall:

22 (a) Prepare financial statements on the state fund in accordance
23 with generally accepted accounting principles(~~(, including but not~~
24 ~~limited to financial statements on the accident fund, the medical aid~~
25 ~~fund, the supplemental pension fund, and the second injury fund)~~).
26 Statements must be presented separately by fund and in the aggregate;
27 and

28 (b) Prepare financial information for the (~~accident fund, medical~~
29 ~~aid fund, and pension reserve~~) state fund based on statutory
30 accounting practices and principles promulgated by the national
31 association of insurance commissioners for the purpose of maintaining
32 actuarial solvency of these funds.

33 (2) Beginning in 2006, and, to avoid duplication, coordinated with
34 any audit that may be conducted under RCW 43.09.310, the state auditor
35 shall conduct annual audits of the state fund. As part of the audits
36 required under this section, the state auditor may contract with firms
37 qualified to perform all or part of the financial audit, as necessary.

1 (a) The firm or firms conducting the reviews shall be familiar with
2 the accounting standards applicable to the accounts under review and
3 shall have experience in workers' compensation reserving, discounting,
4 and rate making.

5 (b) The scope of the financial audit shall include, but is not
6 limited to:

7 (i) An opinion on whether the financial statements were prepared in
8 accordance with generally accepted accounting principles;

9 (ii) An assessment of the financial impact of the proposed rate
10 level on the actuarial solvency of the (~~accident, medical aid, and~~
11 ~~pension reserve funds~~) state fund, taking into consideration the risks
12 inherent with insurance and the effects of the actuarial assumptions,
13 discount rates, reserving, retrospective rating program, refunds, and
14 individual employer rate classes, as well as the standard accounting
15 principles used for insurance underwriting purposes; and

16 (iii) A statement of actuarial opinion on whether the loss and loss
17 adjustment expense reserves (~~for the accident, medical aid, and~~
18 ~~pension reserve funds~~) were prepared in accordance with generally
19 accepted actuarial principles.

20 (c) The department shall cooperate with the state auditor in all
21 respects and shall permit the state auditor full access to all
22 information deemed necessary for a true and complete review.

23 (d) The cost of the audit shall be paid by the state fund under
24 separate contract.

25 (3) The state auditor shall issue an annual report to the governor,
26 the leaders of the majority and minority caucuses in the senate and the
27 house of representatives, the director of the office of financial
28 management, and the director of the department, on the results of the
29 financial audit and reviews, within six months of the end of the fiscal
30 year. The report may include recommendations.

31 (4) The audit report shall be available for public inspection.

32 (5) Within ninety days after the state auditor completes and
33 delivers to the appropriate authority an audit under subsection (2) of
34 this section, the director of the department shall notify the state
35 auditor in writing of the measures taken and proposed to be taken, if
36 any, to respond to the recommendations of the audit report. The state
37 auditor may extend the ninety-day period for good cause.

1 **Sec. 105.** RCW 51.48.010 and 1985 c 347 s 2 are each amended to
2 read as follows:

3 Every employer shall be liable for the penalties described in this
4 title and may also be liable if an injury or occupational disease has
5 been sustained by a worker prior to the time he or she has secured the
6 payment of such compensation to a penalty in a sum not less than fifty
7 percent nor more than one hundred percent of the cost for such injury
8 or occupational disease. Any employer who has failed to secure payment
9 of compensation for his or her workers covered under this title may
10 also be liable to a maximum penalty in a sum of five hundred dollars or
11 in a sum double the amount of premiums incurred prior to securing
12 payment of compensation under this title, whichever is greater, for the
13 benefit of the ((~~medical aid fund~~)) assigned risk pool.

14 **Sec. 106.** RCW 51.48.020 and 2008 c 120 s 9 are each amended to
15 read as follows:

16 (1)(a) Any employer, who knowingly misrepresents to the
17 ((~~department~~)) insurer the amount of his or her payroll or employee
18 hours upon which the premium under this title is based, shall be liable
19 to the ((~~state~~)) insurer for up to ten times the amount of the
20 difference in premiums paid and the amount the employer should have
21 paid and for the reasonable expenses of auditing his or her books and
22 collecting such sums. Such liability may be enforced in the name of
23 the ((~~department~~)) insurer.

24 (b) An employer is guilty of a class C felony, if:

25 (i) The employer, with intent to evade determination and payment of
26 the correct amount of the premiums, knowingly makes misrepresentations
27 regarding payroll or employee hours; or

28 (ii) The employer engages in employment covered under this title
29 and, with intent to evade determination and payment of the correct
30 amount of the premiums, knowingly fails to secure payment of
31 compensation under this title or knowingly fails to report the payroll
32 or employee hours related to that employment.

33 (c) Upon conviction under (b) of this subsection, the employer
34 shall be ordered by the court to pay the premium due and owing, a
35 penalty in the amount of one hundred percent of the premium due and
36 owing, and interest on the premium and penalty from the time the
37 premium was due until the date of payment. The court shall:

1 (i) Collect the premium and interest and transmit it to the
2 ((~~department of labor and industries~~)) insurer, or to the assigned risk
3 pool if the employer was convicted for failure to secure compensation;
4 and

5 (ii) Collect the penalty and disburse it pro rata as follows: One-
6 third to the investigative agencies involved; one-third to the
7 prosecuting authority; and one-third to the general fund of the county
8 in which the matter was prosecuted.

9 Payments collected under this subsection must be applied until
10 satisfaction of the obligation in the following order: Premium
11 payments; penalty; and interest.

12 (d) An employer found to have violated this subsection shall, in
13 addition to any other penalties, be subject to the penalties in RCW
14 39.12.055.

15 (2) Any person claiming benefits under this title, who knowingly
16 gives false information required in any claim or application under this
17 title shall be guilty of a felony, or gross misdemeanor in accordance
18 with the theft and anticipatory provisions of Title 9A RCW.

19 **Sec. 107.** RCW 51.48.030 and 1986 c 9 s 8 are each amended to read
20 as follows:

21 Every employer who fails to keep and preserve the records required
22 by this title or fails to make the reports provided in this title shall
23 be subject to a penalty determined by the director but not to exceed
24 two hundred fifty dollars or two hundred percent of the quarterly tax
25 for each such offense, whichever is greater. Any employer who fails to
26 keep and preserve the records adequate to determine taxes due shall be
27 forever barred from questioning, in an appeal before the board of
28 industrial insurance appeals or the courts, the correctness of any
29 assessment by the ((~~department~~)) insurer based on any period for which
30 such records have not been kept and preserved.

31 **Sec. 108.** RCW 51.48.040 and 2003 c 53 s 282 are each amended to
32 read as follows:

33 (1) The books, records and payrolls of the employer pertinent to
34 the administration of this title shall always be open to inspection by
35 the ((~~department or its traveling auditor, agent or assistant,~~))

1 insurer for the purpose of ascertaining the correctness of the payroll,
2 the persons employed, and such other information as may be necessary
3 (~~for the department and its management~~) under this title.

4 (2) Refusal on the part of the employer to submit his or her books,
5 records, and payrolls for such inspection (~~to the department, or any~~
6 ~~assistant presenting written authority from the director,~~) shall
7 subject the offending employer to a penalty determined by the director
8 but not to exceed two hundred fifty dollars for each offense and the
9 individual who personally gives such refusal is guilty of a
10 misdemeanor.

11 (3) Any employer who fails to allow adequate inspection in
12 accordance with the requirements of this section is subject to having
13 its certificate of coverage revoked (~~by order of the department~~) and
14 is forever barred from questioning in any proceeding in front of the
15 board of industrial insurance appeals or any court, the correctness of
16 any assessment (~~by the department~~) based on any period for which such
17 records have not been produced for inspection.

18 **Sec. 109.** RCW 51.48.050 and 1980 c 14 s 13 are each amended to
19 read as follows:

20 It shall be unlawful for any employer to directly or indirectly
21 demand or collect from any of his or her workers any sum of money
22 whatsoever for or on account of medical, surgical, hospital, or other
23 treatment or transportation of injured workers, other than as specified
24 in RCW 51.16.140, and any employer who directly or indirectly violates
25 the (~~foregoing~~) provisions of this section shall be liable to the
26 state for the benefit of the (~~medical aid fund~~) assigned risk pool in
27 ten times the amount so demanded or collected, and such employer and
28 every officer, agent, or servant of such employer knowingly
29 participating therein shall also be guilty of a misdemeanor.

30 **Sec. 110.** RCW 51.48.055 and 2004 c 243 s 3 are each amended to
31 read as follows:

32 (1) Upon termination, dissolution, or abandonment of a corporate or
33 limited liability company business, any officer, member, manager, or
34 other person having control or supervision of payment and/or reporting
35 of industrial insurance, or who is charged with the responsibility for
36 the filing of returns, is personally liable for any unpaid premiums and

1 interest and penalties on those premiums if such officer or other
2 person willfully fails to pay or to cause to be paid any premiums due
3 (~~the department~~) under chapter 51.16 RCW.

4 For purposes of this subsection "willfully fails to pay or to cause
5 to be paid" means that the failure was the result of an intentional,
6 conscious, and voluntary course of action.

7 (2) The officer, member, manager, or other person is liable only
8 for premiums that became due during the period he or she had the
9 control, supervision, responsibility, or duty to act for the
10 corporation described in subsection (1) of this section, plus interest
11 and penalties on those premiums.

12 (3) The officer, member, manager, or other person is not liable if
13 that person is not exempt from mandatory coverage under RCW 51.12.020
14 and was directed not to pay the employer's premiums by someone who is
15 exempt.

16 (4) The officer, member, manager, or other person is not liable if
17 all of the assets of the corporation or limited liability company have
18 been applied to its debts through bankruptcy or receivership.

19 (5) Any person having been issued a notice of assessment under this
20 section is entitled to (~~the~~) appeal (~~procedures under RCW~~
21 ~~51.48.131~~)).

22 (6) This section does not relieve the corporation or limited
23 liability company of its liabilities under Title 51 RCW or otherwise
24 impair other tax collection remedies afforded by law.

25 (7) Collection authority and procedures prescribed in this chapter
26 apply to collections under this section.

27 **Sec. 111.** RCW 51.48.060 and 2004 c 65 s 14 are each amended to
28 read as follows:

29 Any physician or licensed advanced registered nurse practitioner
30 who fails, neglects or refuses to file a report (~~with the director,~~)
31 as required by this title, within five days of the date of treatment,
32 showing the condition of the injured worker at the time of treatment,
33 a description of the treatment given, and an estimate of the probable
34 duration of the injury, or who fails or refuses to render all necessary
35 assistance to the injured worker, as required by this title, shall be
36 subject to a civil penalty determined by the director but not to exceed
37 two hundred fifty dollars.

1 **Sec. 112.** RCW 51.48.080 and 1985 c 347 s 7 are each amended to
2 read as follows:

3 Every person, firm or corporation who violates or fails to obey,
4 observe or comply with any rule of the (~~department promulgated~~)
5 commissioner adopted under authority of this title(~~(7)~~) shall be
6 subject to a penalty of not to exceed five hundred dollars.

7 **Sec. 113.** RCW 51.48.090 and 1961 c 23 s 51.48.090 are each amended
8 to read as follows:

9 Civil penalties to the state under this title shall be collected by
10 civil action in the name of the state and paid into the (~~accident~~
11 ~~fund~~) assigned risk pool unless a different fund is designated.

12 **Sec. 114.** RCW 51.48.103 and 2008 c 120 s 8 are each amended to
13 read as follows:

14 (1) It is a gross misdemeanor:

15 (a) For any employer to engage in business subject to this title
16 without having obtained a certificate of coverage as provided for in
17 this title;

18 (b) For the president, vice president, secretary, treasurer, or
19 other officer of any company to cause or permit the company to engage
20 in business subject to this title without having obtained a certificate
21 of coverage as provided for in this title.

22 (2) It is a class C felony punishable according to chapter 9A.20
23 RCW:

24 (a) For any employer to engage in business subject to this title
25 after the employer's certificate of coverage has been revoked (~~by~~
26 ~~order of the department~~);

27 (b) For the president, vice president, secretary, treasurer, or
28 other officer of any company to cause or permit the company to engage
29 in business subject to this title after revocation of a certificate of
30 coverage.

31 (3) An employer found to have violated this section shall, in
32 addition to any other penalties, be subject to the penalties in RCW
33 39.12.055.

34 **Sec. 115.** RCW 51.48.250 and 1986 c 200 s 4 are each amended to
35 read as follows:

1 (1) No person, firm, corporation, partnership, association, agency,
2 institution, or other legal entity, but not including an industrially
3 injured recipient of health service, shall, on behalf of himself or
4 others, obtain or attempt to obtain payments under this chapter in a
5 greater amount than that to which entitled by means of:

6 (a) A willful false statement;

7 (b) Willful misrepresentation, or by concealment of any material
8 facts; or

9 (c) Other fraudulent scheme or device, including, but not limited
10 to:

11 (i) Billing for services, drugs, supplies, or equipment that were
12 not furnished, of lower quality, or a substitution or misrepresentation
13 of items billed; or

14 (ii) Repeated billing for purportedly covered items, which were not
15 in fact so covered.

16 (2) Any person, firm, corporation, partnership, association,
17 agency, institution, or other legal entity knowingly violating any of
18 the provisions of subsection (1) of this section shall be liable for
19 repayment of any excess payments received, plus interest on the amount
20 of the excess benefits or payments at the rate of one percent each
21 month for the period from the date upon which payment was made to the
22 date upon which repayment is made (~~to the state~~). Such person or
23 other entity shall further, in addition to any other penalties provided
24 by law, be subject to civil penalties. The director (~~of the~~
25 ~~department of labor and industries~~) may assess civil penalties in an
26 amount not to exceed the greater of one thousand dollars or three times
27 the amount of such excess benefits or payments: PROVIDED, That these
28 civil penalties shall not apply to any acts or omissions occurring
29 prior to April 1, 1986.

30 (3) A criminal action need not be brought against a person, firm,
31 corporation, partnership, association, agency, institution, or other
32 legal entity for that person or entity to be civilly liable under this
33 section.

34 (4) Civil penalties shall be deposited in the general fund upon
35 their receipt.

36 **Sec. 116.** RCW 51.48.260 and 1986 c 200 s 3 are each amended to
37 read as follows:

1 Any person, firm, corporation, partnership, association, agency,
2 institution, or other legal entity, but not including an industrially
3 injured recipient of health services, that, without intent to violate
4 this chapter, obtains payments under Title 51 RCW to which such person
5 or entity is not entitled, shall be liable for: (1) Any excess
6 payments received; and (2) interest on the amount of excess payments at
7 the rate of one percent each month for the period from the date upon
8 which payment was made to the date upon which repayment is made (~~to~~
9 ~~the state~~)).

10 **Sec. 117.** RCW 51.52.030 and 1961 c 23 s 51.52.030 are each amended
11 to read as follows:

12 The board may incur such expenses as are reasonably necessary to
13 carry out its duties (~~hereunder~~), which expenses shall be paid(~~to~~
14 ~~one half from the accident fund and one half from the medical aid~~)
15 from the industrial insurance administrative fund upon vouchers
16 approved by the board.

17 **Sec. 118.** RCW 51.52.050 and 2008 c 280 s 1 are each amended to
18 read as follows:

19 (1) Whenever the (~~department~~) insurer has made any order,
20 decision, or award, it shall promptly serve the worker, beneficiary,
21 employer, or other person affected thereby, with a copy thereof by
22 mail, which shall be addressed to such person at his or her last known
23 address as shown by the records of the (~~department~~) insurer. The
24 copy, in case the same is a final order, decision, or award, shall bear
25 on the same side of the same page on which is found the amount of the
26 award, a statement, set in black faced type of at least ten point body
27 or size, that such final order, decision, or award shall become final
28 within sixty days from the date the order is communicated to the
29 parties unless a written request for reconsideration is filed with the
30 (~~department of labor and industries, Olympia~~) insurer, or an appeal
31 is filed with the board of industrial insurance appeals, Olympia.
32 However, (~~a department~~) an order or decision making demand, whether
33 with or without penalty, for repayment of sums paid to a provider of
34 medical, dental, vocational, or other health services rendered to an
35 industrially injured worker, shall state that such order or decision
36 shall become final within twenty days from the date the order or

1 decision is communicated to the parties unless a written request for
2 reconsideration is filed with the (~~department of labor and industries,~~
3 ~~Olympia~~) insurer, or an appeal is filed with the board of industrial
4 insurance appeals, Olympia.

5 (2)(a) Whenever the (~~department~~) commissioner has taken any
6 action or made any decision relating to any phase of the administration
7 of this title the worker, beneficiary, employer, or other person
8 aggrieved thereby may request reconsideration of the department, or may
9 appeal to the board. In an appeal before the board, the appellant
10 shall have the burden of proceeding with the evidence to establish a
11 prima facie case for the relief sought in such appeal.

12 (b) An order (~~by the department~~) awarding benefits shall become
13 effective and benefits due on the date issued. Subject to (b)(i) and
14 (ii) of this subsection, if the (~~department~~) order is appealed the
15 order shall not be stayed pending a final decision on the merits unless
16 ordered by the board. Upon issuance of the order granting the appeal,
17 the board will provide the worker with notice concerning the potential
18 of an overpayment of benefits paid pending the outcome of the appeal
19 and the requirements for interest on unpaid benefits pursuant to RCW
20 51.52.135. A worker may request that benefits cease pending appeal at
21 any time following the employer's motion for stay or the board's order
22 granting appeal. The request must be submitted in writing to the
23 employer, the board, and the (~~department~~) insurer. Any employer may
24 move for a stay of the order on appeal, in whole or in part. The
25 motion must be filed within fifteen days of the order granting appeal.
26 The board shall conduct an expedited review of the claim file provided
27 by the (~~department~~) insurer as it existed on the date of the
28 (~~department~~) order. The board shall issue a final decision within
29 twenty-five days of the filing of the motion for stay or the order
30 granting appeal, whichever is later. The board's final decision may be
31 appealed to superior court in accordance with RCW 51.52.110. The board
32 shall grant a motion to stay if the moving party demonstrates that it
33 is more likely than not to prevail on the facts as they existed at the
34 time of the order on appeal. The board shall not consider the
35 likelihood of recoupment of benefits as a basis to grant or deny a
36 motion to stay. If a self-insured employer prevails on the merits, any
37 benefits paid may be recouped pursuant to RCW 51.32.240.

1 (i) If upon reconsideration requested by a worker or medical
2 provider, the ((department)) insurer has ordered an increase in a
3 permanent partial disability award from the amount reflected in an
4 earlier order, the award reflected in the earlier order shall not be
5 stayed pending a final decision on the merits. However, the increase
6 is stayed without further action by the board pending a final decision
7 on the merits.

8 (ii) If any party appeals an order establishing a worker's wages or
9 the compensation rate at which a worker will be paid temporary or
10 permanent total disability or loss of earning power benefits, the
11 worker shall receive payment pending a final decision on the merits
12 based on the following:

13 (A) When the employer is self-insured, the wage calculation or
14 compensation rate the employer most recently submitted to the
15 ((department)) commissioner; or

16 (B) When the employer is insured through ((the state fund)) an
17 insurer, the highest wage amount or compensation rate uncontested by
18 the parties.

19 Payment of benefits or consideration of wages at a rate that is
20 higher than that specified in (b)(ii)(A) or (B) of this subsection is
21 stayed without further action by the board pending a final decision on
22 the merits.

23 (c) In an appeal from an order of ((the department)) an insurer
24 that alleges willful misrepresentation, the ((department)) insurer or
25 self-insured employer shall initially introduce all evidence in its
26 case in chief. Any such person aggrieved by the decision and order of
27 the board may thereafter appeal to the superior court, as prescribed in
28 this chapter.

29 **Sec. 119.** RCW 51.52.060 and 1995 c 253 s 1 and 1995 c 199 s 7 are
30 each reenacted and amended to read as follows:

31 (1)(a) Except as otherwise specifically provided in this section,
32 a worker, beneficiary, employer, health services provider, or other
33 person aggrieved by an order, decision, or award of ((the department))
34 an insurer must, before he or she appeals to the courts, file with the
35 board and the ((director)) insurer, by mail or personally, within sixty
36 days from the day on which a copy of the order, decision, or award was
37 communicated to such person, a notice of appeal to the board. However,

1 a health services provider or other person aggrieved by ((a
2 department)) an order or decision making demand, whether with or
3 without penalty, solely for repayment of sums paid to a provider of
4 medical, dental, vocational, or other health services rendered to an
5 industrially injured worker must, before he or she appeals to the
6 courts, file with the board and the ((director)) insurer, by mail or
7 personally, within twenty days from the day on which a copy of the
8 order or decision was communicated to the health services provider upon
9 whom the ((department)) order or decision was served, a notice of
10 appeal to the board.

11 (b) Failure to file a notice of appeal with both the board and the
12 ((department)) insurer shall not be grounds for denying the appeal if
13 the notice of appeal is filed with either the board or the
14 ((department)) insurer.

15 (2) Within ten days of the date on which an appeal has been granted
16 by the board, the board shall notify the other interested parties to
17 the appeal of the receipt of the appeal and shall forward a copy of the
18 notice of appeal to the other interested parties. Within twenty days
19 of the receipt of such notice of the board, the worker or the employer
20 may file with the board a cross-appeal from the order of the
21 ((department)) insurer from which the original appeal was taken.

22 (3) If within the time limited for filing a notice of appeal to the
23 board from an order, decision, or award ((of the department)), the
24 ((department)) insurer directs the submission of further evidence or
25 the investigation of any further fact, the time for filing the notice
26 of appeal shall not commence to run until the person has been advised
27 in writing of the final decision of the ((department)) insurer in the
28 matter. In the event the ((department)) insurer directs the submission
29 of further evidence or the investigation of any further fact, as
30 provided in this section, the department shall render a final order,
31 decision, or award within ninety days from the date further submission
32 of evidence or investigation of further fact is ordered which time
33 period may be extended ((by the department)) for good cause stated in
34 writing to all interested parties for an additional ninety days.

35 (4) The ((department)) insurer, either within the time limited for
36 appeal, or within thirty days after receiving a notice of appeal, may:

37 (a) Modify, reverse, or change any order, decision, or award; or

1 (b)(i) Except as provided in (b)(ii) of this subsection, hold an
2 order, decision, or award in abeyance for a period of ninety days which
3 time period may be extended (~~(by the department)~~) for good cause stated
4 in writing to all interested parties for an additional ninety days
5 pending further investigation in light of the allegations of the notice
6 of appeal; or

7 (ii) Hold an order, decision, or award issued under RCW 51.32.160
8 in abeyance for a period not to exceed ninety days from the date of
9 receipt of an application under RCW 51.32.160. The (~~department~~)
10 insurer may extend the ninety-day time period for an additional sixty
11 days for good cause.

12 For purposes of this subsection, good cause includes delay that
13 results from conduct of the claimant that is subject to sanction under
14 RCW 51.32.110.

15 The board shall deny the appeal upon the issuance of an order under
16 (b)(i) or (ii) of this subsection holding an earlier order, decision,
17 or award in abeyance, without prejudice to the appellant's right to
18 appeal from any subsequent determinative order (~~(issued by the~~
19 ~~department)~~).

20 This subsection (4)(b) does not apply to applications deemed
21 granted under RCW 51.32.160.

22 (5) An employer shall have the right to appeal an application
23 deemed granted under RCW 51.32.160 on the same basis as any other
24 application adjudicated pursuant to that section.

25 (6) A provision of this section shall not be deemed to change,
26 alter, or modify the practice or procedure of (~~the department~~) an
27 insurer for the payment of awards pending appeal.

28 **Sec. 120.** RCW 51.52.070 and 1977 ex.s. c 350 s 77 are each amended
29 to read as follows:

30 The notice of appeal to the board shall set forth in full detail
31 the grounds upon which the person appealing considers such order,
32 decision, or award is unjust or unlawful, and shall include every issue
33 to be considered by the board, and it must contain a detailed statement
34 of facts upon which such worker, beneficiary, employer, or other person
35 relies in support thereof. The worker, beneficiary, employer, or other
36 person shall be deemed to have waived all objections or irregularities
37 concerning the matter on which such appeal is taken other than those

1 specifically set forth in such notice of appeal or appearing in the
2 records of the ((department)) insurer. The ((department)) insurer
3 shall promptly transmit its original record, or a legible copy thereof
4 produced by mechanical, photographic, or electronic means, in such
5 matter to the board.

6 **Sec. 121.** RCW 51.52.080 and 1971 ex.s. c 289 s 69 are each amended
7 to read as follows:

8 If the notice of appeal raises no issue or issues of fact and the
9 board finds that the ((department)) insurer properly and lawfully
10 decided all matters raised by such appeal it may, without further
11 hearing, deny the same and confirm the ((department's)) decision or
12 award, or if the ((department's)) record sustains the contention of the
13 person appealing to the board, it may, without further hearing, allow
14 the relief asked in such appeal; otherwise, it shall grant the appeal.

15 **Sec. 122.** RCW 51.52.100 and 1982 c 109 s 8 are each amended to
16 read as follows:

17 Hearings shall be held in the county of the residence of the worker
18 or beneficiary, or in the county where the injury occurred, at a place
19 designated by the board. Such hearing shall be de novo and summary,
20 but no witness' testimony shall be received unless he or she shall
21 first have been sworn to testify the truth, the whole truth and nothing
22 but the truth in the matter being heard, or unless his or her testimony
23 shall have been taken by deposition according to the statutes and rules
24 relating to superior courts of this state. The ((department)) insurer
25 shall be entitled to appear in all proceedings before the board and
26 introduce testimony in support of its order. The board shall cause all
27 oral testimony to be stenographically reported and thereafter
28 transcribed, and when transcribed, the same, with all depositions,
29 shall be filed in, and remain a part of, the record on the appeal.
30 Such hearings on appeal to the board may be conducted by one or more of
31 its members, or a duly authorized industrial appeals judge, and
32 depositions may be taken by a person duly commissioned for the purpose
33 by the board.

34 Members of the board, its duly authorized industrial appeals
35 judges, and all persons duly commissioned by it for the purpose of
36 taking depositions, shall have power to administer oaths; to preserve

1 and enforce order during such hearings; to issue subpoenas for, and to
2 compel the attendance and testimony of, witnesses, or the production of
3 books, papers, documents, and other evidence, or the taking of
4 depositions before any designated individual competent to administer
5 oaths, and it shall be their duty so to do to examine witnesses; and to
6 do all things conformable to law which may be necessary to enable them,
7 or any of them, effectively to discharge the duties of his or her
8 office.

9 If any person in proceedings before the board disobeys or resists
10 any lawful order or process, or misbehaves during a hearing or so near
11 the place thereof as to obstruct the same, or neglects to produce,
12 after having been ordered so to do, any pertinent book, paper or
13 document, or refuses to appear after having been subpoenaed, or upon
14 appearing refuses to take oath as a witness, or after having the oath
15 refuses to be examined according to law, the board or any member or
16 duly authorized industrial appeals judge may certify the facts to the
17 superior court having jurisdiction in the place in which said board or
18 member or industrial appeals judge is sitting; the court shall
19 thereupon, in a summary manner, hear the evidence as to the acts
20 complained of, and, if the evidence so warrants, punish such person in
21 the same manner and to the same extent as for a contempt committed
22 before the court, or commit such person upon the same conditions as if
23 the doing of the forbidden act had occurred with reference to the
24 proceedings, or in the presence, of the court.

25 **Sec. 123.** RCW 51.52.110 and 1988 c 202 s 49 are each amended to
26 read as follows:

27 Within thirty days after a decision of the board to deny the
28 petition or petitions for review upon such appeal has been communicated
29 to such worker, beneficiary, employer or other person, or within thirty
30 days after the final decision and order of the board upon such appeal
31 has been communicated to such worker, beneficiary, employer or other
32 person, or within thirty days after the appeal is denied as herein
33 provided, such worker, beneficiary, employer or other person aggrieved
34 by the decision and order of the board may appeal to the superior
35 court. If such worker, beneficiary, employer, or other person fails to
36 file with the superior court its appeal as provided in this section

1 within said thirty days, the decision of the board to deny the petition
2 or petitions for review or the final decision and order of the board
3 shall become final.

4 In cases involving injured workers, an appeal to the superior court
5 shall be to the superior court of the county of residence of the worker
6 or beneficiary, as shown by the (~~department's~~) insurer's records, or
7 to the superior court of the county wherein the injury occurred or
8 where neither the county of residence nor the county wherein the injury
9 occurred are in the state of Washington then the appeal may be directed
10 to the superior court for Thurston county. In all other cases the
11 appeal shall be to the superior court of Thurston county. Such appeal
12 shall be perfected by filing with the clerk of the court a notice of
13 appeal and by serving a copy thereof by mail, or personally, on the
14 (~~director~~) insurer and on the board. If the case is one involving a
15 self-insurer, a copy of the notice of appeal shall also be served by
16 mail, or personally, on such self-insurer. The (~~department~~) insurer
17 shall, in all cases not involving a self-insurer, within twenty days
18 after the receipt of such notice of appeal, serve and file its notice
19 of appearance and such appeal shall thereupon be deemed at issue. If
20 the case is one involving a self-insurer, such self-insurer shall,
21 within twenty days after receipt of such notice of appeal, serve and
22 file its notice of appearance and such appeal shall thereupon be deemed
23 to be at issue. In such cases the (~~department~~) insurer may appear
24 and take part in any proceedings. The board shall serve upon the
25 appealing party, the (~~director~~) insurer, the self-insurer if the case
26 involves a self-insurer, and any other party appearing at the board's
27 proceeding, and file with the clerk of the court before trial, a
28 certified copy of the board's official record which shall include the
29 notice of appeal and other pleadings, testimony and exhibits, and the
30 board's decision and order, which shall become the record in such case.
31 No bond shall be required on appeals to the superior court or on review
32 by the supreme court or the court of appeals, except that an appeal by
33 the employer from a decision and order of the board (~~under RCW~~
34 ~~51.48.070,~~) shall be ineffectual unless, within five days following
35 the service of notice thereof, a bond, with surety satisfactory to the
36 court, shall be filed, conditioned to perform the judgment of the
37 court. Except in the case last named an appeal shall not be a stay:
38 PROVIDED, HOWEVER, That whenever the board has made any decision and

1 order reversing an order of the (~~supervisor of industrial insurance~~)
2 insurer on questions of law (~~or mandatory administrative actions of~~
3 ~~the director~~), the (~~department~~) insurer shall have the right of
4 appeal to the superior court.

5 **Sec. 124.** RCW 51.52.115 and 1961 c 23 s 51.52.115 are each amended
6 to read as follows:

7 Upon appeals to the superior court only such issues of law or fact
8 may be raised as were properly included in the notice of appeal to the
9 board, or in the complete record of the proceedings before the board.
10 The hearing in the superior court shall be de novo, but the court shall
11 not receive evidence or testimony other than, or in addition to, that
12 offered before the board or included in the record filed by the board
13 in the superior court as provided in RCW 51.52.110: PROVIDED, That in
14 cases of alleged irregularities in procedure before the board, not
15 shown in said record, testimony thereon may be taken in the superior
16 court. The proceedings in every such appeal shall be informal and
17 summary, but full opportunity to be heard shall be had before judgment
18 is pronounced. In all court proceedings under or pursuant to this
19 title the findings and decision of the board shall be prima facie
20 correct and the burden of proof shall be upon the party attacking the
21 same. If the court shall determine that the board has acted within its
22 power and has correctly construed the law and found the facts, the
23 decision of the board shall be confirmed; otherwise, it shall be
24 reversed or modified. In case of a modification or reversal the
25 superior court shall refer the same to the (~~department~~) insurer with
26 an order directing it to proceed in accordance with the findings of the
27 court: PROVIDED, That any award shall be in accordance with the
28 schedule of compensation set forth in this title. In appeals to the
29 superior court hereunder, either party shall be entitled to a trial by
30 jury upon demand, and the jury's verdict shall have the same force and
31 effect as in actions at law. Where the court submits a case to the
32 jury, the court shall by instruction advise the jury of the exact
33 findings of the board on each material issue before the court.

34 **Sec. 125.** RCW 51.52.120 and 2007 c 490 s 3 are each amended to
35 read as follows:

36 (1) (~~It shall be unlawful for an attorney engaged in the~~

1 ~~representation of any worker or beneficiary to charge for services in~~
2 ~~the department any fee in excess of a reasonable fee, of not more than~~
3 ~~thirty percent of the increase in the award secured by the attorney's~~
4 ~~services. Such reasonable fee shall be fixed by the director or the~~
5 ~~director's designee for services performed by an attorney for such~~
6 ~~worker or beneficiary, if written application therefor is made by the~~
7 ~~attorney, worker, or beneficiary within one year from the date the~~
8 ~~final decision and order of the department is communicated to the party~~
9 ~~making the application.~~

10 ~~(2))~~ If, on appeal to the board, the order, decision, or award of
11 the ~~((department))~~ insurer is reversed or modified and additional
12 relief is granted to a worker or beneficiary, or in cases where a party
13 other than the worker or beneficiary is the appealing party and the
14 worker's or beneficiary's right to relief is sustained by the board,
15 the board shall fix a reasonable fee for the services of his or her
16 attorney in proceedings before the board if written application
17 therefor is made by the attorney, worker, or beneficiary within one
18 year from the date the final decision and order of the board is
19 communicated to the party making the application. ~~((In fixing the~~
20 ~~amount of such attorney's fee, the board shall take into consideration~~
21 ~~the fee allowed, if any, by the director, for services before the~~
22 ~~department, and the board may review the fee fixed by the director.))~~
23 Any attorney's fee set by ~~((the department or))~~ the board may be
24 reviewed by the superior court upon application of such attorney,
25 worker, or beneficiary. The ~~((department))~~ insurer or self-insured
26 employer, as the case may be, shall be served a copy of the application
27 and shall be entitled to appear and take part in the proceedings.
28 Where the board, pursuant to this section, fixes the attorney's fee, it
29 shall be unlawful for an attorney to charge or receive any fee for
30 services before the board in excess of that fee fixed by the board.

31 ~~((3))~~ (2) In an appeal to the board involving the presumption
32 established under RCW 51.32.185, the attorney's fee shall be payable as
33 set forth under RCW 51.32.185.

34 ~~((4))~~ (3) Any person who violates this section is guilty of a
35 misdemeanor.

36 **Sec. 126.** RCW 51.52.130 and 2007 c 490 s 4 are each amended to
37 read as follows:

1 (1) If, on appeal to the superior or appellate court from the
2 decision and order of the board, said decision and order is reversed or
3 modified and additional relief is granted to a worker or beneficiary,
4 or in cases where a party other than the worker or beneficiary is the
5 appealing party and the worker's or beneficiary's right to relief is
6 sustained, a reasonable fee for the services of the worker's or
7 beneficiary's attorney shall be fixed by the court. In fixing the fee
8 the court shall take into consideration the fee or fees, if any, fixed
9 by ~~((the director and))~~ the board for such attorney's services before
10 ~~((the department and))~~ the board. If the court finds that the fee
11 fixed by ~~((the director or by))~~ the board is inadequate for services
12 performed before the ~~((department or))~~ board, or if ~~((the director or))~~
13 the board has fixed no fee for such services, then the court shall fix
14 a fee for the attorney's services before ~~((the department, or))~~ the
15 board~~((, as the case may be,))~~ in addition to the fee fixed for the
16 services in the court. If in a worker or beneficiary appeal the
17 decision and order of the board is reversed or modified and if the
18 ~~((accident fund or medical aid))~~ assigned risk pool fund is affected by
19 the litigation, or if in an appeal by the ~~((department))~~ insurer or
20 employer the worker or beneficiary's right to relief is sustained, ~~((or~~
21 ~~in an appeal by a worker involving a state fund employer with twenty-~~
22 ~~five employees or less,))~~ in which the department does not appear and
23 defend, and the board order in favor of the employer is sustained, the
24 attorney's fee fixed by the court, for services before the court only,
25 and the fees of medical and other witnesses and the costs shall be
26 payable out of the industrial insurance administrative fund ~~((of the~~
27 ~~department))~~. In the case of self-insured employers, the attorney fees
28 fixed by the court, for services before the court only, and the fees of
29 medical and other witnesses and the costs shall be payable directly by
30 the self-insured employer.

31 (2) In an appeal to the superior or appellate court involving the
32 presumption established under RCW 51.32.185, the attorney's fee shall
33 be payable as set forth under RCW 51.32.185.

34 **Sec. 127.** RCW 51.52.132 and 1965 ex.s. c 63 s 2 are each amended
35 to read as follows:

36 Where the ~~((department, the))~~ board or the court~~((,))~~ pursuant to
37 RCW 51.52.120 or 51.52.130 fixes the attorney's fee, it shall be

1 unlawful for an attorney to charge or receive any fee in excess of that
2 fixed by the ((department,)) board or the court. Any person who
3 violates any provision of this section shall be guilty of a
4 misdemeanor.

5 **Sec. 128.** RCW 51.52.135 and 1983 c 301 s 1 are each amended to
6 read as follows:

7 (1) When a worker or beneficiary prevails in an appeal by the
8 employer to the board or in an appeal by the employer to the court from
9 the decision and order of the board, the worker or beneficiary shall be
10 entitled to interest at the rate of twelve percent per annum on the
11 unpaid amount of the award after deducting the amount of attorney fees.

12 (2) When a worker or beneficiary prevails in an appeal by the
13 worker or beneficiary to the board or the court regarding a claim for
14 temporary total disability, the worker or beneficiary shall be entitled
15 to interest at the rate of twelve percent per annum on the unpaid
16 amount of the award after deducting the amount of attorney fees.

17 (3) The interest provided for in subsections (1) and (2) of this
18 section shall accrue from the date of the ((department's)) insurer's
19 order granting the award or denying payment of the award. The interest
20 shall be paid by the party having the obligation to pay the award. The
21 amount of interest to be paid shall be fixed by the board or court, as
22 the case may be.

23 NEW SECTION. **Sec. 129.** The following acts or parts of acts are
24 each repealed:

25 (1) RCW 51.04.030 (Medical aid--Rules--Maximum fees--Records and
26 bill payment) and 2004 c 65 s 1, 1998 c 230 s 1, 1997 c 325 s 2, & 1994
27 c 164 s 25;

28 (2) RCW 51.04.082 (Notices and orders--Mail or personal service)
29 and 1986 c 9 s 2;

30 (3) RCW 51.04.085 (Transmission of amounts payable) and 1977 ex.s.
31 c 323 s 26;

32 (4) RCW 51.04.110 (Workers' compensation advisory committee) and
33 1982 c 109 s 2 & 1980 c 14 s 3;

34 (5) RCW 51.04.120 (Certificate of coverage required--Contents) and
35 1986 c 9 s 1;

1 (6) RCW 51.04.150 (Education and outreach--Workers' compensation,
2 premium responsibilities, and independent contractor issues) and 2009
3 c 432 s 10;

4 (7) RCW 51.08.175 ("State fund"--"State of Washington industrial
5 insurance fund.") and 1977 ex.s. c 323 s 5, 1972 ex.s. c 43 s 5, & 1971
6 ex.s. c 289 s 88;

7 (8) RCW 51.14.070 (Payments upon default) and 1986 c 57 s 3 & 1971
8 ex.s. c 289 s 36;

9 (9) RCW 51.16.035 (Classifications--Premiums--Rules--Workers'
10 compensation advisory committee recommendations) and 2005 c 410 s 1,
11 1999 c 7 s 8, 1989 c 49 s 1, 1980 c 129 s 4, 1977 ex.s. c 350 s 24, &
12 1971 ex.s. c 289 s 16;

13 (10) RCW 51.16.042 (Occupational and environmental research
14 facility) and 1977 ex.s. c 350 s 25, 1971 ex.s. c 289 s 84, & 1963 c
15 151 s 2;

16 (11) RCW 51.16.060 (Quarterly report of payrolls) and 1985 c 315 s
17 1 & 1981 c 260 s 13;

18 (12) RCW 51.16.100 (Classification changes) and 1961 c 23 s
19 51.16.100;

20 (13) RCW 51.16.105 (Departmental expenses, financing) and 1994 c
21 164 s 26, 1977 ex.s. c 350 s 27, 1973 1st ex.s. c 52 s 8, 1971 ex.s. c
22 289 s 86, & 1961 c 23 s 51.16.105;

23 (14) RCW 51.16.130 (Distribution of catastrophe cost) and 1972
24 ex.s. c 43 s 14 & 1961 c 23 s 51.16.130;

25 (15) RCW 51.16.155 (Failure or refusal of employer to report or pay
26 premiums due--Collection) and 1996 c 60 s 1, 1985 c 315 s 3, & 1971
27 ex.s. c 289 s 87;

28 (16) RCW 51.16.160 (Lien for payments due--Priority--Probate,
29 insolvency, etc) and 1985 c 315 s 4, 1971 ex.s. c 289 s 78, & 1961 c 23
30 s 51.16.160;

31 (17) RCW 51.16.170 (Lien for premiums, assessments, contributions,
32 and penalties--Priority--In general--Notice) and 1986 c 9 s 5 & 1961 c
33 23 s 51.16.170;

34 (18) RCW 51.16.180 (Property acquired by state on execution) and
35 1971 ex.s. c 289 s 79 & 1961 c 23 s 51.16.180;

36 (19) RCW 51.16.190 (Limitation on collection actions) and 1987 c
37 111 s 7, 1985 c 315 s 5, & 1977 ex.s. c 323 s 27;

1 (20) RCW 51.16.200 (Payment of tax by employer quitting business--
2 Liability of successor) and 1995 c 160 s 1 & 1986 c 9 s 6;
3 (21) RCW 51.18.005 (Findings) and 1999 c 7 s 1;
4 (22) RCW 51.18.010 (Availability--Rules--Coverage period) and 1999
5 c 7 s 2;
6 (23) RCW 51.18.020 (Entrance criteria) and 1999 c 7 s 3;
7 (24) RCW 51.18.030 (Sponsoring entities--New or existing
8 retrospective rating groups) and 1999 c 7 s 4;
9 (25) RCW 51.18.040 (Retrospective rating groups--Industry and
10 business categories) and 1999 c 7 s 5;
11 (26) RCW 51.18.050 (Retrospective rating groups--Probationary
12 status--Denial of future enrollment) and 1999 c 7 s 6;
13 (27) RCW 51.18.060 (Retrospective rating groups--Department
14 approval) and 1999 c 7 s 7;
15 (28) RCW 51.18.900 (Severability--1999 c 7) and 1999 c 7 s 10;
16 (29) RCW 51.36.080 (Payment of fees and medical charges by
17 department--Interest--Cost-effective payment methods--Audits) and 1998
18 c 245 s 104, 1993 c 159 s 2, 1987 c 470 s 1, 1985 c 368 s 2, 1985 c 338
19 s 1, & 1971 ex.s. c 289 s 55;
20 (30) RCW 51.36.085 (Payment of fees and medical charges by self-
21 insurers--Interest) and 1993 c 159 s 3 & 1987 c 316 s 4;
22 (31) RCW 51.36.090 (Review of billings--Investigation of
23 unauthorized services) and 1985 c 337 s 3;
24 (32) RCW 51.36.100 (Audits of health care providers authorized) and
25 1993 c 515 s 5 & 1986 c 200 s 1;
26 (33) RCW 51.36.110 (Audits of health care providers--Powers of
27 department) and 2004 c 243 s 6, 2004 c 65 s 13, 1994 c 154 s 312, 1993
28 c 515 s 6, & 1986 c 200 s 2;
29 (34) RCW 51.36.130 (False, misleading, or deceptive advertising or
30 representations) and 1997 c 336 s 2;
31 (35) RCW 51.44.010 (Accident fund) and 1961 c 23 s 51.44.010;
32 (36) RCW 51.44.020 (Medical aid fund) and 1961 c 23 s 51.44.020;
33 (37) RCW 51.44.030 (Reserve fund) and 1961 c 23 s 51.44.030;
34 (38) RCW 51.44.050 (Catastrophe injury account) and 1961 c 23 s
35 51.44.050;
36 (39) RCW 51.44.060 (Charge to accident fund for the catastrophe
37 injury account) and 1972 ex.s. c 43 s 28 & 1961 c 23 s 51.44.060;

1 (40) RCW 51.28.015 (Injury reporting--Findings--Department
2 educational initiative--Pilot program, employers to assist workers in
3 applying for benefits--Report) and 2006 c 254 s 1 & 2005 c 108 s 1;
4 (41) RCW 51.32.300 (State employee vocational rehabilitation
5 coordinator) and 1990 c 204 s 5;
6 (42) RCW 51.32.350 (Chemically related illness--Criteria and
7 procedures for claims--Claims management) and 1994 c 265 s 1;
8 (43) RCW 51.32.360 (Chemically related illness--Centers for
9 research and clinical assessment) and 1994 c 265 s 3;
10 (44) RCW 51.32.370 (Chemically related illness--Research projects--
11 Implementation plan--Funding--Deductions from employees' pay) and 1994
12 c 265 s 4;
13 (45) RCW 51.48.075 (Information and training on premium liability)
14 and 2004 c 243 s 5;
15 (46) RCW 51.48.120 (Notice of assessment for default in payments by
16 employer--Issuance--Service--Contents) and 1995 c 160 s 5, 1986 c 9 s
17 10, 1985 c 315 s 6, & 1972 ex.s. c 43 s 32;
18 (47) RCW 51.48.131 (Notice of assessment for default in payments by
19 employer--Appeal) and 1989 c 175 s 120, 1987 c 316 s 3, & 1985 c 315 s
20 7;
21 (48) RCW 51.48.140 (Notice of assessment for employer's default in
22 payments--When amount becomes final--Warrant--Execution--Garnishment--
23 Fees) and 2001 c 146 s 11, 1989 c 175 s 121, 1985 c 315 s 8, & 1972
24 ex.s. c 43 s 34;
25 (49) RCW 51.48.150 (Notice of assessment for employer's default in
26 payments--Notice to withhold and deliver property due employer) and
27 1995 c 160 s 6, 1987 c 442 s 1119, 1986 c 9 s 11, & 1972 ex.s. c 43 s
28 35;
29 (50) RCW 51.48.160 (Revocation of certificate of coverage for
30 failure to pay warrants or taxes) and 1986 c 9 s 13;
31 (51) RCW 51.48.170 (Emergency assessment and collection of taxes)
32 and 1986 c 9 s 14;
33 (52) RCW 51.48.180 (Emergency assessment and collection of taxes--
34 Distraint and sale of property) and 1986 c 9 s 15;
35 (53) RCW 51.48.190 (Emergency assessment and collection of taxes--
36 Conduct of sale) and 1986 c 9 s 16;
37 (54) RCW 51.48.200 (Search and seizure of property to satisfy tax

1 warrant or assessment--Issuance and execution of search warrant) and
2 1986 c 9 s 17;

3 (55) RCW 51.48.210 (Delinquent taxes) and 1987 c 111 s 8 & 1986 c
4 9 s 18;

5 (56) RCW 51.48.220 (Order of execution upon property--Procedure--
6 Sale) and 1986 c 9 s 21;

7 (57) RCW 51.48.230 (Order of execution upon property--Enforcement)
8 and 1986 c 9 s 22;

9 (58) RCW 51.48.240 (Agents and employees of department not
10 personally liable--Conditions) and 1986 c 9 s 23;

11 (59) RCW 51.48.290 (Written verification by health services
12 providers) and 1986 c 200 s 7;

13 (60) RCW 51.52.075 (Appeal from order terminating provider's
14 authority to provide services--Department petition for order
15 immediately suspending provider's eligibility to participate) and 2004
16 c 259 s 1;

17 (61) RCW 51.52.150 (Costs on appeals) and 1961 c 23 s 51.52.150;
18 and

19 (62) RCW 51.52.800 (Workers' compensation study) and 2008 c 280 s
20 5.

21 NEW SECTION. **Sec. 130.** Sections 8 through 13, 15, 18, 20, and 23
22 of this act constitute a new chapter in Title 51 RCW.

23 NEW SECTION. **Sec. 131.** This act takes effect July 1, 2012.

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