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SENATE BILL 6732

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State of Washington

61st Legislature

2010 Regular Session

By Senators Kohl-Welles, Holmquist, Keiser, Honeyford, and Shin

Read first time 01/25/10. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to claims of insolvent self-insurers under  
2 industrial insurance; and amending RCW 51.16.120 and 51.14.060.

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

4 **Sec. 1.** RCW 51.16.120 and 2004 c 258 s 1 are each amended to read  
5 as follows:

6 (1) Whenever a worker has a previous bodily disability from any  
7 previous injury or disease, whether known or unknown to the employer,  
8 and shall suffer a further disability from injury or occupational  
9 disease in employment covered by this title and become totally and  
10 permanently disabled from the combined effects thereof or die when  
11 death was substantially accelerated by the combined effects thereof,  
12 then the experience record of an employer insured with the state fund  
13 at the time of (~~said~~) the further injury or disease shall be charged  
14 and a self-insured employer shall pay directly into the reserve fund  
15 only the accident cost which would have resulted solely from (~~said~~)  
16 the further injury or disease, had there been no preexisting  
17 disability, and which accident cost shall be based upon an evaluation  
18 of the disability by medical experts. The difference between the  
19 charge thus assessed to such employer at the time of (~~said~~) the

1 further injury or disease and the total cost of the pension reserve  
2 shall be assessed against the second injury fund. Except as provided  
3 in subsection (2) of this section, the department shall pass upon the  
4 application of this section in all cases where benefits are paid for  
5 total permanent disability or death and issue an order thereon  
6 appealable by the employer. Pending outcome of such appeal the  
7 transfer or payment shall be made as required by such order.

8 (2) If a self-insured employer is in default or the director has  
9 withdrawn the certification of a self-insured employer, the department  
10 shall not pass on the application of this section. In such cases, the  
11 total cost of the pension reserve shall first be assessed against the  
12 defaulting self-insured employer's deposit required by RCW 51.14.020  
13 and in cases where the surety funds are insufficient the remaining cost  
14 of the pension reserve shall be assessed against the insolvency trust  
15 fund.

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

24 ((+3)) (4) To encourage employment of injured workers who are not  
25 reemployed by the employer at the time of injury, the department may  
26 adopt rules providing for the reduction or elimination of premiums or  
27 assessments from subsequent employers of such workers and may also  
28 adopt rules for the reduction or elimination of charges against such  
29 employers in the event of further injury to such workers in their  
30 employ.

31 ((+4)) (5) To encourage employment of injured workers who have a  
32 developmental disability as defined in RCW 71A.10.020, the department  
33 may adopt rules providing for the reduction or elimination of premiums  
34 or assessments from employers of such workers and may also adopt rules  
35 for the reduction or elimination of charges against their employers in  
36 the event of further injury to such workers in their employ.

1       **Sec. 2.** RCW 51.14.060 and 1986 c 57 s 2 are each amended to read  
2 as follows:

3       (1) The director may, in cases of default upon any obligation under  
4 this title by the self-insurer, after ten days notice by certified mail  
5 to the defaulting self-insurer of the intention to do so, bring suit  
6 upon such bond or collect the interest and principal of any of the  
7 securities as they may become due or sell the securities or any of them  
8 as may be required or apply the money deposited, all in order to pay  
9 compensation and discharge the obligations of the defaulting self-  
10 insurer under this title.

11       (2) The director shall be authorized to fulfill the defaulting  
12 self-insured employer's obligations under this title from the  
13 defaulting self-insured employer's deposit or from other funds provided  
14 under this title for the satisfaction of claims against the defaulting  
15 self-insured employer. The defaulting self-insured employer is liable  
16 to and shall reimburse the director for the amounts necessary to  
17 fulfill the obligations of the defaulting self-insured employer that  
18 are in excess of the amounts received by the director from any bond  
19 filed, or securities or money deposited, by the defaulting self-insured  
20 employer pursuant to chapter 51.14 RCW. The amounts to be reimbursed  
21 shall include all amounts paid or payable as compensation under this  
22 title together with administrative costs, including attorneys' fees,  
23 and shall be considered taxes due the state of Washington.

24       (3) The department shall transfer the balance of any defaulted  
25 self-insured employer's deposit as required by RCW 51.14.020 into the  
26 insolvency trust fund when the following have occurred:

27       (a) All claims against the defaulted self-insured employer are  
28 closed; and

29       (b) The self-insured employer has been in default for ten years.

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