

SHB 2026 - H AMD 648

By Representative Sells

ADOPTED 04/12/2011

Strike everything after the enacting clause and insert the following:

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

The legislature finds that stability in industrial insurance premium rates benefits both employers and workers. Further, the legislature finds that economic and other events may cause both benefit costs and premiums collected to change in unanticipated ways. Therefore, the legislature intends that rather than return surplus funds to employers and workers in the form of rate holidays, dividends, and other returns, surpluses should be deposited into a rainy day account to be used in lieu of a premium rate increase. The legislature further intends that funds deposited into the rainy day account be held in trust for the employers and workers who paid them in the form of industrial insurance premiums and may not be expended for purposes other than the benefits required by this title and the administration of those benefits.

Sec. 2. RCW 51.16.035 and 2005 c 410 s 1 are each amended to read as follows:

(1) The department shall classify all occupations or industries in accordance with their degree of hazard and fix therefor basic rates of premium which shall be:

(a) The lowest necessary to maintain actuarial solvency of the accident and medical aid funds in accordance with recognized insurance principles; and

(b) Designed to attempt to limit fluctuations in premium rates.

1 (2)(a)(i) Before proposing premium rates, the director shall
2 determine whether the combined assets in the accident fund and medical
3 aid fund are more than ten percent greater than funded liabilities.

4 (ii) If the director finds that the combined assets in the
5 accident fund and medical aid fund are more than ten percent greater
6 than funded liabilities, the director, subject to (a)(iii) of this
7 subsection, must notify the treasurer of the excess and the treasurer
8 must transfer the amount of the excess to the industrial insurance
9 rainy day account created in section 4 of this act. The director must
10 determine and direct the treasurer whether to transfer the excess from
11 the accident fund or medical aid fund, or both.

12 (iii) The director has discretion to transfer to the industrial
13 insurance rainy day account amounts that are more than thirty percent
14 greater than funded liabilities. No transfer may be made under this
15 subsection (2) if the director determines that a transfer would impair
16 the ability of the department to meet the obligations of this title.

17 (b) If the director determines to increase average rates for the
18 accident fund or medical aid fund, the amount of the increase must
19 first be funded from the industrial insurance rainy day account
20 created in section 4 of this act. The director must notify the state
21 treasurer and the state treasurer must transfer the amount required to
22 fund the rate increase from the accident fund or medical aid fund, or
23 both, as appropriate. The amount so transferred may not exceed the
24 balance in the industrial insurance rainy day account that is
25 attributable to the affected fund.

26 (c) The director must consult with the workers' compensation
27 advisory committee in administering this subsection.

28 (3) The department shall formulate and adopt rules governing the
29 method of premium calculation and collection and providing for a
30 rating system consistent with recognized principles of workers'
31 compensation insurance which shall be designed to stimulate and
32 encourage accident prevention and to facilitate collection. The
33 department may annually, or at such other times as it deems necessary
34 to achieve the objectives under this section, readjust rates in

1 accordance with the rating system to become effective on such dates as
2 the department may designate. However, the department may not
3 distribute premium dividends, other than refunds under the
4 retrospective rating plan pursuant to chapter 51.18 RCW, and may not
5 reduce average rates.

6 ~~((3)(a) After the first report is issued by the state auditor~~
7 ~~under RCW 51.44.115, the workers' compensation advisory committee~~
8 ~~shall review the report and, as the committee deems appropriate, may~~
9 ~~make recommendations to the department concerning:~~

10 ~~— (i) The level or levels of a contingency reserve that are~~
11 ~~appropriate to maintain actuarial solvency of the accident and medical~~
12 ~~aid funds, limit premium rate fluctuations, and account for economic~~
13 ~~conditions; and~~

14 ~~— (ii) When surplus funds exist in the trust funds, the~~
15 ~~circumstances under which the department should give premium~~
16 ~~dividends, or similar measures, or temporarily reduce rates below the~~
17 ~~rates fixed under subsection (1) of this section, including any~~
18 ~~recommendations regarding notifications that should be given before~~
19 ~~taking the action.~~

20 ~~— (b) Following subsequent reports issued by the state auditor under~~
21 ~~RCW 51.44.115, the workers' compensation advisory committee may, as it~~
22 ~~deems appropriate, update its recommendations to the department on the~~
23 ~~matters covered under (a) of this subsection.)~~

24 (4) In providing a retrospective rating plan under RCW 51.18.010,
25 the department may consider each individual retrospective rating group
26 as a single employing entity for purposes of dividends or premium
27 discounts.

28
29 NEW SECTION. Sec. 3. A new section is added to chapter 51.44 RCW
30 to read as follows:

31 The decisions of the director under RCW 51.16.035 regarding
32 transfers to and from the industrial insurance rainy day account
33 created in section 4 of this act do not constitute "agency action" or
34 "rules" under RCW 34.05.010 and are not reviewable by any court or

1 tribunal, but must be announced as part of the rule-making process for
2 setting premium rates and must be part of the department's rule-making
3 file under chapter 34.05 RCW.

4
5 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.44 RCW
6 to read as follows:

7 The industrial insurance rainy day account is created in the state
8 treasury as an industrial insurance trust fund. Revenues to the
9 account consist of transfers made pursuant to RCW 51.16.035(2).
10 Moneys in the account may be used solely for transfers into the
11 accident fund or medical aid fund or both in order to avoid premium
12 increases in those funds under RCW 51.16.035 and retain their status
13 as moneys held in trust for purposes of the industrial insurance
14 program. The treasurer must separately account for any transfers to
15 and from the accident fund and the medical aid fund.

16
17 **Sec. 5.** RCW 51.44.100 and 1990 c 80 s 1 are each amended to read
18 as follows:

19 Whenever, in the judgment of the state investment board, there
20 shall be in the accident fund, medical aid fund, reserve fund,
21 industrial insurance rainy day account, or the supplemental pension
22 fund, funds in excess of that amount deemed by the state investment
23 board to be sufficient to meet the current expenditures properly
24 payable therefrom, the state investment board may invest and reinvest
25 such excess funds in the manner prescribed by RCW 43.84.150, and not
26 otherwise.

27 The state investment board may give consideration to the
28 investment of excess funds in federally insured student loans made to
29 persons in vocational training or retraining or reeducation programs.
30 The state investment board may make such investments by purchasing
31 from savings and loan associations, commercial banks, mutual savings
32 banks, credit unions and other institutions authorized to be lenders
33 under the federally insured student loan act, organized under federal
34 or state law and operating in this state loans made by such

1 institutions to residents of the state of Washington particularly for
2 the purpose of vocational training or reeducation: PROVIDED, That the
3 state investment board shall purchase only that portion of any loan
4 which is guaranteed or insured by the United States of America, or by
5 any agency or instrumentality of the United States of America:
6 PROVIDED FURTHER, That the state investment board is authorized to
7 enter into contracts with such savings and loan associations,
8 commercial banks, mutual savings banks, credit unions, and other
9 institutions authorized to be lenders under the federally insured
10 student loan act to service loans purchased pursuant to this section
11 at an agreed upon contract price.

12

13 **Sec. 6.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st
14 sp.s. c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and
15 2010 c 145 s 11 are each reenacted and amended to read as follows:

16 (1) All earnings of investments of surplus balances in the state
17 treasury shall be deposited to the treasury income account, which
18 account is hereby established in the state treasury.

19 (2) The treasury income account shall be utilized to pay or
20 receive funds associated with federal programs as required by the
21 federal cash management improvement act of 1990. The treasury income
22 account is subject in all respects to chapter 43.88 RCW, but no
23 appropriation is required for refunds or allocations of interest
24 earnings required by the cash management improvement act. Refunds of
25 interest to the federal treasury required under the cash management
26 improvement act fall under RCW 43.88.180 and shall not require
27 appropriation. The office of financial management shall determine the
28 amounts due to or from the federal government pursuant to the cash
29 management improvement act. The office of financial management may
30 direct transfers of funds between accounts as deemed necessary to
31 implement the provisions of the cash management improvement act, and
32 this subsection. Refunds or allocations shall occur prior to the
33 distributions of earnings set forth in subsection (4) of this section.

34

1 (3) Except for the provisions of RCW 43.84.160, the treasury
2 income account may be utilized for the payment of purchased banking
3 services on behalf of treasury funds including, but not limited to,
4 depository, safekeeping, and disbursement functions for the state
5 treasury and affected state agencies. The treasury income account is
6 subject in all respects to chapter 43.88 RCW, but no appropriation is
7 required for payments to financial institutions. Payments shall occur
8 prior to distribution of earnings set forth in subsection (4) of this
9 section.

10 (4) Monthly, the state treasurer shall distribute the earnings
11 credited to the treasury income account. The state treasurer shall
12 credit the general fund with all the earnings credited to the treasury
13 income account except:

14 (a) The following accounts and funds shall receive their
15 proportionate share of earnings based upon each account's and fund's
16 average daily balance for the period: The aeronautics account, the
17 aircraft search and rescue account, the budget stabilization account,
18 the capitol building construction account, the Cedar River channel
19 construction and operation account, the Central Washington University
20 capital projects account, the charitable, educational, penal and
21 reformatory institutions account, the cleanup settlement account, the
22 Columbia river basin water supply development account, the common
23 school construction fund, the county arterial preservation account,
24 the county criminal justice assistance account, the county sales and
25 use tax equalization account, the deferred compensation administrative
26 account, the deferred compensation principal account, the department
27 of licensing services account, the department of retirement systems
28 expense account, the developmental disabilities community trust
29 account, the drinking water assistance account, the drinking water
30 assistance administrative account, the drinking water assistance
31 repayment account, the Eastern Washington University capital projects
32 account, the education construction fund, the education legacy trust
33 account, the election account, the energy freedom account, the energy
34 recovery act account, the essential rail assistance account, The

1 Evergreen State College capital projects account, the federal forest
2 revolving account, the ferry bond retirement fund, the freight
3 congestion relief account, the freight mobility investment account,
4 the freight mobility multimodal account, the grade crossing protective
5 fund, the public health services account, the health system capacity
6 account, the high capacity transportation account, the state higher
7 education construction account, the higher education construction
8 account, the highway bond retirement fund, the highway infrastructure
9 account, the highway safety account, the high occupancy toll lanes
10 operations account, the hospital safety net assessment fund, the
11 industrial insurance rainy day account, the industrial insurance
12 premium refund account, the judges' retirement account, the judicial
13 retirement administrative account, the judicial retirement principal
14 account, the local leasehold excise tax account, the local real estate
15 excise tax account, the local sales and use tax account, the marine
16 resources stewardship trust account, the medical aid account, the
17 mobile home park relocation fund, the motor vehicle fund, the
18 motorcycle safety education account, the multiagency permitting team
19 account, the multimodal transportation account, the municipal criminal
20 justice assistance account, the municipal sales and use tax
21 equalization account, the natural resources deposit account, the
22 oyster reserve land account, the pension funding stabilization
23 account, the perpetual surveillance and maintenance account, the
24 public employees' retirement system plan 1 account, the public
25 employees' retirement system combined plan 2 and plan 3 account, the
26 public facilities construction loan revolving account beginning July
27 1, 2004, the public health supplemental account, the public
28 transportation systems account, the public works assistance account,
29 the Puget Sound capital construction account, the Puget Sound ferry
30 operations account, the Puyallup tribal settlement account, the real
31 estate appraiser commission account, the recreational vehicle account,
32 the regional mobility grant program account, the resource management
33 cost account, the rural arterial trust account, the rural Washington
34 loan fund, the site closure account, the small city pavement and

1 sidewalk account, the special category C account, the special wildlife
2 account, the state employees' insurance account, the state employees'
3 insurance reserve account, the state investment board expense account,
4 the state investment board commingled trust fund accounts, the state
5 patrol highway account, the state route number 520 civil penalties
6 account, the state route number 520 corridor account, the supplemental
7 pension account, the Tacoma Narrows toll bridge account, the teachers'
8 retirement system plan 1 account, the teachers' retirement system
9 combined plan 2 and plan 3 account, the tobacco prevention and control
10 account, the tobacco settlement account, the transportation 2003
11 account (nickel account), the transportation equipment fund, the
12 transportation fund, the transportation improvement account, the
13 transportation improvement board bond retirement account, the
14 transportation infrastructure account, the transportation partnership
15 account, the traumatic brain injury account, the tuition recovery
16 trust fund, the University of Washington bond retirement fund, the
17 University of Washington building account, the urban arterial trust
18 account, the volunteer firefighters' and reserve officers' relief and
19 pension principal fund, the volunteer firefighters' and reserve
20 officers' administrative fund, the Washington judicial retirement
21 system account, the Washington law enforcement officers' and
22 firefighters' system plan 1 retirement account, the Washington law
23 enforcement officers' and firefighters' system plan 2 retirement
24 account, the Washington public safety employees' plan 2 retirement
25 account, the Washington school employees' retirement system combined
26 plan 2 and 3 account, the Washington state health insurance pool
27 account, the Washington state patrol retirement account, the
28 Washington State University building account, the Washington State
29 University bond retirement fund, the water pollution control revolving
30 fund, and the Western Washington University capital projects account.
31 Earnings derived from investing balances of the agricultural permanent
32 fund, the normal school permanent fund, the permanent common school
33 fund, the scientific permanent fund, and the state university
34

1 permanent fund shall be allocated to their respective beneficiary
2 accounts.

3 (b) Any state agency that has independent authority over accounts
4 or funds not statutorily required to be held in the state treasury
5 that deposits funds into a fund or account in the state treasury
6 pursuant to an agreement with the office of the state treasurer shall
7 receive its proportionate share of earnings based upon each account's
8 or fund's average daily balance for the period.

9 (5) In conformance with Article II, section 37 of the state
10 Constitution, no treasury accounts or funds shall be allocated
11 earnings without the specific affirmative directive of this section."

12 Correct the title.
13

14
15

EFFECT: Strikes all provisions of the Substitute Bill.

- Finds that stability in industrial insurance premium rates benefits both employers and workers and that economic and other events may cause benefit costs and premiums to change in unanticipated ways. States intent that rather than return surplus funds in the form of rate holidays, dividends, and other returns, surpluses should be deposited into a rainy day account to be used in lieu of a premium rate increase. States further intent that funds deposited into the rainy day account be held in trust for the employers and workers who paid them in the form of industrial insurance premiums and may not be expended for purposes other than the benefits required by the Industrial Insurance Act and the administration of those benefits.
- Creates an Industrial Insurance Rainy Day Account (Account).
- Provides that before proposing premium rates, the Director (Director) of the Department of Labor and Industries (Department) must determine whether the combined assets in the Accident Fund and Medical Aid Fund are more than 10 percent greater than funded liabilities, and, if so, direct the Treasurer to transfer the excess to the Account. Provides that the Director determines whether to transfer the excess from the Accident Fund or Medical Aid Fund, or both. Gives the Director discretion to transfer amounts that are more than 30 percent

greater than funded liabilities and provides that no transfer may be made if the Director determines a transfer would impair the Department's ability to meet its industrial insurance obligations.

- Provides that if the Director determines to increase average rates for the Accident Fund or the Medical Aid Fund, the increase must first be funded from the Account. Requires the Treasurer to separately account for any transfers to and from the Accident Fund and Medical Aid Fund.
- Provides for the Director to consult with the Workers' Compensation Advisory Committee (WCAC) in administering the transfer provisions. Deletes provisions authorizing the WCAC to make recommendations regarding the contingency reserve and circumstances for dividends or rate reductions.
- Provides that the Department may not distribute premium dividends (other than retrospective rating plan refunds) or reduce average rates.
- Provides that the transfer decisions are not "agency action" or "rules" and are not reviewable by any court or tribunal, but must be announced as part of premium rate rule-making.
- Provides that earnings are retained by the Account and that the State Investment Board may invest moneys in the Account in the same manner as other industrial insurance funds.

--- END ---