

SENATE BILL REPORT

SB 5753

As of February 14, 2011

Title: An act relating to imposing penalties for violations by certain self-insurers, third-party administrators, and claims management entities.

Brief Description: Imposing penalties for violations by certain self-insurers, third-party administrators, and claims management entities.

Sponsors: Senators Kline, Kohl-Welles, Conway, Nelson, Keiser and White.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/15/11.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Mac Nicholson (786-7445)

Background: Qualified employers may self-insure for workers compensation purposes. To be certified as self-insured, an employer must demonstrate to the Department of Labor and Industries (L&I) that the employer has sufficient financial ability to ensure prompt payment of compensation to its injured workers. Self-insurers must provide their injured workers with the same benefits that are provided to injured workers in state fund claims, including medical and time-loss benefits, permanent partial and total disability benefits, and death benefits. Self-insurers are authorized to manage aspects of their injured worker claims, including the payment of benefits directly to their injured workers and to medical providers, and some self-insured employers contract with third parties for workers' compensation administrative and managerial services.

A self-insured employer who fails to comply with industrial insurance laws and regulations is subject to financial penalty and decertification. A self-insurer that fails, refuses, or neglects to comply with a final compensation order is subject to proceedings for relief instituted by L&I or by any person entitled to compensation under the order. Proceedings can be instituted in the county in which the claimant resides, or if the claimant is a nonresident, in the county where the self-insurer may be served with process.

Summary of Bill: Third-party administrator and claims management entity are defined in industrial insurance statutes.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The reasons for which L&I, or a person entitled to compensation under a final order, may institute proceedings against a self-insurer are extended to include self-insurers that refuse to timely provide or pay for treatment or vocational services. Similarly, L&I, or any person entitled to compensation under a final order, can institute proceedings for relief against a third-party administrator (TPA) or claims management entity that fails, refuses, or neglects to comply with a final order, or who refuses to provide or pay for treatment or vocational services.

A worker or the worker's representative may file suit against the self-insured employer, TPA, or claims management entity. Proceedings instituted by nonresident claimants must be brought in Thurston County, rather than the county in which the self-insurer may be served with process.

A court that finds that a self-insurer, TPA, or claims management entity failed, refused, or neglected to pay compensation and benefits due may award the worker three times the amount of unpaid compensation and benefits due, reasonable attorneys' fees, and actual and statutory litigation costs.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.