
ENGROSSED SUBSTITUTE HOUSE BILL 2026

State of Washington

62nd Legislature

2011 Regular Session

By House Labor & Workforce Development (originally sponsored by Representatives Sells and Reykdal)

READ FIRST TIME 04/08/11.

1 AN ACT Relating to creating the industrial insurance rainy day
2 account; amending RCW 51.16.035 and 51.44.100; reenacting and amending
3 RCW 43.84.092; and adding new sections to chapter 51.44 RCW.

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

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

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

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

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

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

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

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

13 (ii) If the director finds that the combined assets in the accident
14 fund and medical aid fund are more than ten percent greater than funded
15 liabilities, the director, subject to (a)(iii) of this subsection, must
16 notify the treasurer of the excess and the treasurer must transfer the
17 amount of the excess to the industrial insurance rainy day account
18 created in section 4 of this act. The director must determine and
19 direct the treasurer whether to transfer the excess from the accident
20 fund or medical aid fund, or both.

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

26 (b) If the director determines to increase average rates for the
27 accident fund or medical aid fund, the amount of the increase must
28 first be funded from the industrial insurance rainy day account created
29 in section 4 of this act. The director must notify the state treasurer
30 and the state treasurer must transfer the amount required to fund the
31 rate increase from the accident fund or medical aid fund, or both, as
32 appropriate. The amount so transferred may not exceed the balance in
33 the industrial insurance rainy day account that is attributable to the
34 affected fund.

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

37 (3) The department shall formulate and adopt rules governing the
38 method of premium calculation and collection and providing for a rating

1 system consistent with recognized principles of workers' compensation
2 insurance which shall be designed to stimulate and encourage accident
3 prevention and to facilitate collection. The department may annually,
4 or at such other times as it deems necessary to achieve the objectives
5 under this section, readjust rates in accordance with the rating system
6 to become effective on such dates as the department may designate.
7 However, the department may not distribute premium dividends, other
8 than refunds under the retrospective rating plan pursuant to chapter
9 51.18 RCW, and may not reduce average rates.

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

14 ~~(i) The level or levels of a contingency reserve that are~~
15 ~~appropriate to maintain actuarial solvency of the accident and medical~~
16 ~~aid funds, limit premium rate fluctuations, and account for economic~~
17 ~~conditions; and~~

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

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

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

31 NEW SECTION. Sec. 3. A new section is added to chapter 51.44 RCW
32 to read as follows:

33 The decisions of the director under RCW 51.16.035 regarding
34 transfers to and from the industrial insurance rainy day account
35 created in section 4 of this act do not constitute "agency action" or
36 "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 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.44 RCW
5 to read as follows:

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

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

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

25 The state investment board may give consideration to the investment
26 of excess funds in federally insured student loans made to persons in
27 vocational training or retraining or reeducation programs. The state
28 investment board may make such investments by purchasing from savings
29 and loan associations, commercial banks, mutual savings banks, credit
30 unions and other institutions authorized to be lenders under the
31 federally insured student loan act, organized under federal or state
32 law and operating in this state loans made by such institutions to
33 residents of the state of Washington particularly for the purpose of
34 vocational training or reeducation: PROVIDED, That the state
35 investment board shall purchase only that portion of any loan which is
36 guaranteed or insured by the United States of America, or by any agency

1 or instrumentality of the United States of America: PROVIDED FURTHER,
2 That the state investment board is authorized to enter into contracts
3 with such savings and loan associations, commercial banks, mutual
4 savings banks, credit unions, and other institutions authorized to be
5 lenders under the federally insured student loan act to service loans
6 purchased pursuant to this section at an agreed upon contract price.

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

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

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

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

36 (4) Monthly, the state treasurer shall distribute the earnings

1 credited to the treasury income account. The state treasurer shall
2 credit the general fund with all the earnings credited to the treasury
3 income account except:

4 (a) The following accounts and funds shall receive their
5 proportionate share of earnings based upon each account's and fund's
6 average daily balance for the period: The aeronautics account, the
7 aircraft search and rescue account, the budget stabilization account,
8 the capitol building construction account, the Cedar River channel
9 construction and operation account, the Central Washington University
10 capital projects account, the charitable, educational, penal and
11 reformatory institutions account, the cleanup settlement account, the
12 Columbia river basin water supply development account, the common
13 school construction fund, the county arterial preservation account, the
14 county criminal justice assistance account, the county sales and use
15 tax equalization account, the deferred compensation administrative
16 account, the deferred compensation principal account, the department of
17 licensing services account, the department of retirement systems
18 expense account, the developmental disabilities community trust
19 account, the drinking water assistance account, the drinking water
20 assistance administrative account, the drinking water assistance
21 repayment account, the Eastern Washington University capital projects
22 account, the education construction fund, the education legacy trust
23 account, the election account, the energy freedom account, the energy
24 recovery act account, the essential rail assistance account, The
25 Evergreen State College capital projects account, the federal forest
26 revolving account, the ferry bond retirement fund, the freight
27 congestion relief account, the freight mobility investment account, the
28 freight mobility multimodal account, the grade crossing protective
29 fund, the public health services account, the health system capacity
30 account, the high capacity transportation account, the state higher
31 education construction account, the higher education construction
32 account, the highway bond retirement fund, the highway infrastructure
33 account, the highway safety account, the high occupancy toll lanes
34 operations account, the hospital safety net assessment fund, the
35 industrial insurance rainy day account, the industrial insurance
36 premium refund account, the judges' retirement account, the judicial
37 retirement administrative account, the judicial retirement principal
38 account, the local leasehold excise tax account, the local real estate

1 excise tax account, the local sales and use tax account, the marine
2 resources stewardship trust account, the medical aid account, the
3 mobile home park relocation fund, the motor vehicle fund, the
4 motorcycle safety education account, the multiagency permitting team
5 account, the multimodal transportation account, the municipal criminal
6 justice assistance account, the municipal sales and use tax
7 equalization account, the natural resources deposit account, the oyster
8 reserve land account, the pension funding stabilization account, the
9 perpetual surveillance and maintenance account, the public employees'
10 retirement system plan 1 account, the public employees' retirement
11 system combined plan 2 and plan 3 account, the public facilities
12 construction loan revolving account beginning July 1, 2004, the public
13 health supplemental account, the public transportation systems account,
14 the public works assistance account, the Puget Sound capital
15 construction account, the Puget Sound ferry operations account, the
16 Puyallup tribal settlement account, the real estate appraiser
17 commission account, the recreational vehicle account, the regional
18 mobility grant program account, the resource management cost account,
19 the rural arterial trust account, the rural Washington loan fund, the
20 site closure account, the small city pavement and sidewalk account, the
21 special category C account, the special wildlife account, the state
22 employees' insurance account, the state employees' insurance reserve
23 account, the state investment board expense account, the state
24 investment board commingled trust fund accounts, the state patrol
25 highway account, the state route number 520 civil penalties account,
26 the state route number 520 corridor account, the supplemental pension
27 account, the Tacoma Narrows toll bridge account, the teachers'
28 retirement system plan 1 account, the teachers' retirement system
29 combined plan 2 and plan 3 account, the tobacco prevention and control
30 account, the tobacco settlement account, the transportation 2003
31 account (nickel account), the transportation equipment fund, the
32 transportation fund, the transportation improvement account, the
33 transportation improvement board bond retirement account, the
34 transportation infrastructure account, the transportation partnership
35 account, the traumatic brain injury account, the tuition recovery trust
36 fund, the University of Washington bond retirement fund, the University
37 of Washington building account, the urban arterial trust account, the
38 volunteer firefighters' and reserve officers' relief and pension

1 principal fund, the volunteer firefighters' and reserve officers'
2 administrative fund, the Washington judicial retirement system account,
3 the Washington law enforcement officers' and firefighters' system plan
4 1 retirement account, the Washington law enforcement officers' and
5 firefighters' system plan 2 retirement account, the Washington public
6 safety employees' plan 2 retirement account, the Washington school
7 employees' retirement system combined plan 2 and 3 account, the
8 Washington state health insurance pool account, the Washington state
9 patrol retirement account, the Washington State University building
10 account, the Washington State University bond retirement fund, the
11 water pollution control revolving fund, and the Western Washington
12 University capital projects account. Earnings derived from investing
13 balances of the agricultural permanent fund, the normal school
14 permanent fund, the permanent common school fund, the scientific
15 permanent fund, and the state university permanent fund shall be
16 allocated to their respective beneficiary accounts.

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

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

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