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**SENATE BILL 5331**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Braun, Rivers, Becker, Angel, Schoesler, Warnick, Dansel, Honeyford, Dammeier, Parlette, and Hewitt

AN ACT Relating to workers' compensation group self-insurance plans; and adding new sections to chapter 51.14 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 51.14 RCW to read as follows:

(1) Any group of employers who are substantially similar, considering the services or activities performed by the employees of those employers, may adopt a plan for self-insurance, as a group, for the payment of all compensation due under this title. Under a group self-insurance plan, the group must assume the liability of all the member employers within the group and pay all benefits and all assessments for which the member employers are liable under this title. Each member employer of the group is responsible, jointly and severally, for all liabilities of the group self-insurer under this title incurred during its respective period of membership. A self-insurance group is an employer for the purposes of this chapter, and may qualify as a self-insurer if it meets all the other requirements of this chapter.

(2) A member employer's participation in a group self-insurer program does not relieve it of its liability for compensation prescribed by this title except by the payment thereof by the group self-insurer or by itself.

(3) Notice or knowledge of an industrial injury on the part of a member is notice or knowledge on the part of the group self-insurer. The group self-insurer is in all things bound by and subject to the orders, findings, decisions, or awards rendered against the participating member for the payment of compensation under this title.

(4) A group self-insurer must form a group insolvency trust or other mechanism to be used as the exclusive mechanism to provide for payment of benefits to injured workers of employers participating in the group in case of insolvency of one or more members of the group.

(5) A group self-insurer may secure the services of a group administrator to be responsible for assisting the group self-insurer in complying with this title.

(6) For the purposes of this section, "substantially similar" means private employers who are affiliated with the same industry, line of work, or trade, or public employers who are of the same type of government entity. A group may not include both private and public employers.

NEW SECTION. **Sec.**  A new section is added to chapter 51.14 RCW to read as follows:

(1) A group of employers seeking to qualify as a group self-insurer must apply for certification as such to the director pursuant to RCW 51.14.020.

(2) Each member of the group self-insurer must also file a copy of a properly executed participation indemnity agreement that must jointly and severally bind the group and every member employer to meet the workers' compensation obligations of each member. The indemnity agreement must be in the form prescribed by the director and must include minimum uniform substantive provisions as prescribed by the director. Subject to the director's approval, a group may add other provisions necessary because of that group's particular circumstances.

(3) The director may require copies of any and all agreements, contracts, and other pertinent documents relating to the organization of the members in the group self-insurer as a condition of certification.

NEW SECTION. **Sec.**  A new section is added to chapter 51.14 RCW to read as follows:

The director may issue a certification of group self-insurance if the group meets all the requirements of this chapter and has submitted all the reports, records, and other information required by the self-insured application process.

NEW SECTION. **Sec.**  A new section is added to chapter 51.14 RCW to read as follows:

(1) The membership of an individual member of a group is subject to cancellation by the group as provided by the bylaws of the group. An individual member may also elect to terminate participation in the group. Termination of a participating member is not effective until at least ten days after notice of such termination has been filed with the department and with the member subject to termination. The group must maintain coverage of each canceled or terminated member until the 30th day after the date of the notice, at the terminating member's expense, unless before that date the director notifies the group that the canceled or terminated member has obtained workers' compensation insurance coverage through the state fund, has become a certified self-insurer, or has become a member of another group.

(2) A member who elects to terminate membership or whose membership is canceled by the group remains jointly and severally liable for the workers' compensation obligations of the group and its members incurred during the canceled or terminated member's period of membership.

(3) The insolvency, bankruptcy, or termination of a participating member of a group self-insurer does not relieve the group self-insurer from the payment of compensation for injuries or death sustained by an employee during the time the member was a participant in the group self-insurer.

(4) Any member terminating membership in a group self-insurer after less than four years in such group self-insurer, and any member in a group self-insurer that has defaulted, may not obtain prospective coverage from any group self-insurer for a period of at least three years from the effective date of termination.

NEW SECTION. **Sec.**  A new section is added to chapter 51.14 RCW to read as follows:

The provisions of this chapter relating to self-insurers are applicable to group self-insurers. The department must adopt rules to carry out the purposes of this section and sections 1 through 4 of this act, including rules to:

(1) Govern the formation of self-insurance groups for the purposes of this chapter;

(2) Govern the organization and operation of the groups to assure their compliance with the requirements of this chapter;

(3) Require adequate monetary reserves, determined under accepted actuarial practices, to be maintained by each group to assure financial solvency of the group;

(4) Require establishment of an insolvency trust or similar mechanism to be used as the exclusive mechanism to provide for payment of benefits to injured workers of employers participating in the group in case of insolvency of one or more members of the group; and

(5) Require each group to carry adequate reinsurance.

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