

SENATE BILL REPORT

SB 5670

As Reported by Senate Committee On:
Commerce, Labor & Sports, February 15, 2017

Title: An act relating to notice to state fund employers for certain workers' compensation third-party settlements.

Brief Description: Requiring notice to state fund employers for certain workers' compensation third-party settlements.

Sponsors: Senators Braun and Mullet.

Brief History:

Committee Activity: Commerce, Labor & Sports: 2/02/17, 2/15/17 [DPS, DNP, w/oRec].

Brief Summary of Substitute Bill

- Requires notice to a state fund employer of the status of compromise or settlement negotiations of a third-party claim.
- Notice is not required if the costs of the claim is no longer included in the employer's premium calculation or under other certain conditions.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Majority Report: That Substitute Senate Bill No. 5670 be substituted therefor, and the substitute bill do pass.

Signed by Senators Baumgartner, Chair; Braun, Vice Chair; Keiser, Ranking Minority Member; Conway, King, Rossi and Wilson.

Minority Report: Do not pass.

Signed by Senator Hasegawa.

Minority Report: That it be referred without recommendation.

Signed by Senator Saldaña.

Staff: Susan Jones (786-7404)

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.

Background: Workers' Compensation - General. The Industrial Insurance Program (workers' compensation) is administered by the Department of Labor and Industries (L&I) and is funded through premiums collected from employers and employees. Workers are entitled to workers' compensation benefits depending on the type of injury or disease and whether the injury or disease precludes any further gainful employment.

State Fund Employer versus Self-Insured Employer (Self-Insurer). Employers must insure through the state fund administered by L&I or, if qualified, may self-insure. Self-insurance is a program in which the employer provides any and all appropriate benefits to the injured worker and manages the claims of its employees.

Third-Party Claims. A worker injured on the job receives workers' compensation benefits, even if the employer was not liable for the injury. In cases where a third party caused the injury, the injured worker, or L&I and/or the self-insurer, can sue the third party for damages. L&I and the self-insurer have a statutory right to use parts of any amount recovered in a third-party suit to reimburse the state fund and/or the self-insurer for benefits paid out to the injured worker.

Approval Required for Third-Party Claims Settlement. Any compromise or settlement of the third-party cause of action by the injured worker or beneficiary which results in less than the entitlement, which is the benefits and compensation paid and estimated by L&I to be paid in the future, is void unless made with L&I or the self-insurer's written approval. If a compromise or settlement is void because of the failure to obtain written approval, L&I or the self-insurer may petition the court for an order assigning the cause of action to L&I or self-insurer.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): For a state fund claim, L&I must provide reasonable ongoing notice to the employer of the status of any third party compromise or settlement negotiations between the injured worker or beneficiary and L&I, for the employer's information. Notice is not required if:

- the costs of the claim or claims are no longer included in the calculation of the employer's experience factor used to determine premiums; or
- if the employer cannot be located, is no longer in business, or requests that they not receive ongoing notice after L&I provides timely notice of the settlement process to the employer.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on First Substitute: PRO: There was an employer with an employee who was rear-ended by a third party. The workers' compensation claim

was approximately \$210,000. The employer got notice that the third-party settlement was \$10,000 and requested documents from L&I to find out why the settlement was so deficit and why their premiums were going to go up \$34,000 over 4 years. L&I said there was no law requiring it to provide the documents. The employer had to go to BIIA to get the documents. They have worked with L&I and they are going to start implementing this now. However, the legislation would make it clear that the employer is able to get the information without having to go to BIIA. Employers need the information that impacts their costs and retro programs.

CON: The concerns are alleviated with the proposed substitute.

OTHER: L&I provided technical input to the bill. L&I will begin doing this administratively and has no concerns with the proposal.

Persons Testifying: PRO: Senator John Braun, Prime Sponsor; Carolyn Logue, Washington Food Industry Association; Tammie Hetrick, Washington Retail Association.

CON: Joe Kendo, Washington State Labor Council, AFL-CIO.

OTHER: Tammy Fellin, Labor & Industries.

Persons Signed In To Testify But Not Testifying: No one.