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HOUSE BILL 2762

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Sells, McCabe, and Kilduff; by request of Department of Labor & Industries

Read first time 01/15/18. Referred to Committee on Appropriations.

1 AN ACT Relating to allowing the department to use a different  
2 assumption for annual investment returns for the reserve funds for  
3 self-insured and state fund pension claims; amending RCW 51.44.070  
4 and 51.44.140; and adding a new section to chapter 51.44 RCW.

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

6 **Sec. 1.** RCW 51.44.070 and 1992 c 124 s 1 are each amended to  
7 read as follows:

8 ~~((1))~~ For every case resulting in death or permanent total  
9 disability the department shall transfer on its books from the  
10 accident fund of the proper class and/or appropriate account to the  
11 "reserve fund" a sum of money for that case equal to the estimated  
12 present cash value of the monthly payments provided for it, to be  
13 calculated upon the basis of an annuity covering the payments in this  
14 title provided to be made for the case. Such annuity values shall be  
15 based upon rates of mortality, disability, remarriage, and interest  
16 as determined by the department, taking into account the experience  
17 of the reserve fund in such respects.

18 ~~((Similarly, a self-insurer in these circumstances shall pay into  
19 the reserve fund a sum of money computed in the same manner, and the  
20 disbursements therefrom shall be made as in other cases.~~

1       ~~(2) As an alternative to payment procedures otherwise provided~~  
2 ~~under law, in the event of death or permanent total disability to~~  
3 ~~workers of self-insured employers, a self-insured employer may upon~~  
4 ~~establishment of such obligation file with the department a bond, an~~  
5 ~~assignment of account from a federally or state chartered commercial~~  
6 ~~banking institution authorized to conduct business in the state of~~  
7 ~~Washington, or purchase an annuity, in an amount deemed by the~~  
8 ~~department to be reasonably sufficient to insure payment of the~~  
9 ~~pension benefits provided by law. Any purchase of an annuity shall be~~  
10 ~~from an institution meeting the following minimum requirements: (a)~~  
11 ~~The institution must be rated no less than "A+" by A.M. Best, and no~~  
12 ~~less than "AA" by Moody's and by Standard & Poor's; (b) the value of~~  
13 ~~the assets of the institution must not be less than ten billion~~  
14 ~~dollars; (c) not more than ten percent of the institution's assets~~  
15 ~~may include bonds that are rated less than "BBB" by Moody's and~~  
16 ~~Standard & Poor's; (d) not more than five percent of the assets may~~  
17 ~~be held as equity in real estate; and (e) not more than twenty-five~~  
18 ~~percent of the assets may be first mortgages, and not more than five~~  
19 ~~percent may be second mortgages. The department shall adopt rules~~  
20 ~~governing assignments of account and annuities. Such rules shall~~  
21 ~~ensure that the funds are available if needed, even in the case of~~  
22 ~~failure of the banking institution, the institution authorized to~~  
23 ~~provide annuities, or the employer's business.~~

24       ~~The annuity value for every such case shall be determined by the~~  
25 ~~department based upon the department's experience as to rates of~~  
26 ~~mortality, disability, remarriage, and interest. The amount of the~~  
27 ~~required bond, assignment of account, or annuity may be reviewed and~~  
28 ~~adjusted periodically by the department, based upon periodic~~  
29 ~~redeterminations by the department as to the outstanding annuity~~  
30 ~~value for the case.~~

31       ~~Under such alternative, the department shall administer the~~  
32 ~~payment of this obligation to the beneficiary or beneficiaries. The~~  
33 ~~department shall be reimbursed for all such payments from the self-~~  
34 ~~insured employer through periodic charges not less than quarterly in~~  
35 ~~a manner to be determined by the director. The self-insured employer~~  
36 ~~shall additionally pay to the department a deposit equal to the first~~  
37 ~~three months' payments otherwise required under RCW 51.32.050 and~~  
38 ~~51.32.060. Such deposit shall be placed in the reserve fund in~~  
39 ~~accordance with RCW 51.44.140 and shall be returned to the respective~~

1 ~~self-insured employer when monthly payments are no longer required~~  
2 ~~for such particular obligation.~~

3 ~~If a self-insurer delays or refuses to reimburse the department~~  
4 ~~beyond fifteen days after the reimbursement charges become due, there~~  
5 ~~shall be a penalty paid by the self-insurer upon order of the~~  
6 ~~director of an additional amount equal to twenty five percent of the~~  
7 ~~amount then due which shall be paid into the pension reserve fund.~~  
8 ~~Such an order shall conform to the requirements of RCW 51.52.050.)~~

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.44  
10 RCW to read as follows:

11 (1) For every case resulting in death or permanent total  
12 disability, a self-insurer in these circumstances shall pay into the  
13 reserve fund a sum of money for that case equal to the estimated  
14 present cash value of the monthly payments provided for it, to be  
15 calculated upon the basis of an annuity covering the payments in this  
16 title provided to be made for the case. Such annuity values shall be  
17 based upon rates of mortality, disability, remarriage, and interest  
18 as determined by the department, taking into account the experience  
19 of the reserve fund in such respects.

20 (2) As an alternative to payment procedures otherwise provided  
21 under law, in the event of death or permanent total disability to  
22 workers of self-insured employers, a self-insured employer may upon  
23 establishment of such obligation file with the department a bond, an  
24 assignment of account from a federally or state chartered commercial  
25 banking institution authorized to conduct business in the state of  
26 Washington, or purchase an annuity, in an amount deemed by the  
27 department to be reasonably sufficient to insure payment of the  
28 pension benefits provided by law. Any purchase of an annuity shall be  
29 from an institution meeting the following minimum requirements: (a)  
30 The institution must be rated no less than "A+" by A.M. Best, and no  
31 less than "AA" by Moody's and by Standard & Poor's; (b) the value of  
32 the assets of the institution must not be less than ten billion  
33 dollars; (c) not more than ten percent of the institution's assets  
34 may include bonds that are rated less than "BBB" by Moody's and  
35 Standard & Poor's; (d) not more than five percent of the assets may  
36 be held as equity in real estate; and (e) not more than twenty-five  
37 percent of the assets may be first mortgages, and not more than five  
38 percent may be second mortgages. The department shall adopt rules  
39 governing assignments of account and annuities. Such rules shall

1 ensure that the funds are available if needed, even in the case of  
2 failure of the banking institution, the institution authorized to  
3 provide annuities, or the employer's business.

4 The annuity value for every such case shall be determined by the  
5 department based upon the department's experience as to rates of  
6 mortality, disability, remarriage, and interest. The amount of the  
7 required bond, assignment of account, or annuity may be reviewed and  
8 adjusted periodically by the department, based upon periodic  
9 redeterminations by the department as to the outstanding annuity  
10 value for the case.

11 Under such an alternative, the department shall administer the  
12 payment of this obligation to the beneficiary or beneficiaries. The  
13 department shall be reimbursed for all such payments from the self-  
14 insured employer through periodic charges not less than quarterly in  
15 a manner to be determined by the director. The self-insured employer  
16 shall additionally pay to the department a deposit equal to the first  
17 three months' payments otherwise required under RCW 51.32.050 and  
18 51.32.060. Such deposit shall be placed in the reserve fund in  
19 accordance with RCW 51.44.140 and shall be returned to the respective  
20 self-insured employer when monthly payments are no longer required  
21 for such particular obligation.

22 If a self-insurer delays or refuses to reimburse the department  
23 beyond fifteen days after the reimbursement charges become due, there  
24 shall be a penalty paid by the self-insurer upon order of the  
25 director of an additional amount equal to twenty-five percent of the  
26 amount then due which shall be paid into the pension reserve fund.  
27 Such an order shall conform to the requirements of RCW 51.52.050.

28 **Sec. 3.** RCW 51.44.140 and 1972 ex.s. c 43 s 30 are each amended  
29 to read as follows:

30 Each self-insurer shall make such deposits, into the reserve  
31 fund, as the department shall require pursuant to ((RCW 51.44.070))  
32 section 2 of this act, as are necessary to guarantee the payments of  
33 the pensions established pursuant to RCW 51.32.050 and 51.32.060.

34 Each self-insurer shall have an account within the reserve fund.  
35 Each such account shall be credited with its proportionate share of  
36 interest or other earnings as determined in RCW 51.44.080.

37 Each such account in the reserve fund shall be expeted ((by the  
38 insurance commissioner)) as required in RCW 51.44.080. Any surpluses  
39 shall be forthwith returned to the respective self-insurers, and each

1 deficit shall forthwith be made good to the reserve fund by the self-  
2 insurer.

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