

HOUSE BILL REPORT

SSB 5474

As Reported by House Committee On: Labor & Workplace Standards

Title: An act relating to permitting self-insurers to send duplicates of certain orders made by the department of labor and industries.

Brief Description: Permitting self-insurers to send duplicates of certain orders made by the department of labor and industries.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senator Keiser).

Brief History:

Committee Activity:

Labor & Workplace Standards: 3/21/19, 3/26/19 [DP].

Brief Summary of Substitute Bill

- Allows a self-insured employer to serve an order made by the Department of Labor and Industries closing a claim, which communication triggers the 60-day appeal deadline.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 7 members: Representatives Sells, Chair; Chapman, Vice Chair; Mosbrucker, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Gregerson, Hoff and Ormsby.

Staff: Joan Elgee (786-7106).

Background:

Under the state's industrial insurance laws, employers must either insure through the State Fund administered by the Department of Labor and Industries (Department) or, if qualified, may self-insure. Depending on the injury, workers injured in the course of employment receive medical benefits, temporary time-loss benefits, and vocational rehabilitation benefits, as well as benefits for permanent disabilities. During the course of a claim, the Department

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may issue various orders, such as to establish an employee's wages, or close a claim. A self-insurer may issue an order closing a claim under certain circumstances.

When the Department makes an order, it must promptly serve the worker or other person affected by the order with a copy. A worker or other person affected may opt to receive notices electronically except for claim closure orders. Correspondence must be addressed to the last known postal or electronic address as shown by the Department's records. The copy of the order must state that the order becomes final unless within 60 days from the date the order is communicated a request for reconsideration is filed with the Department, or an appeal is filed with the Board of Industrial Insurance Appeals.

In a 2017 Court of Appeals (Court) Division I case, *Renton School District No. 403 v. Dolph*, the Department sent the closing order to the incorrect address, and did not send the closing order to the correct address until two years later. In the meantime, a representative of the employer communicated the closing order to the worker. The Court held that the statute requires the Department to communicate the closing order to the worker, and that the communication by the employer did start the clock for purposes of the 60-day deadline.

Summary of Bill:

A self-insured employer may serve a Department order communicating the closure of a claim by using a separate, secure, verifiable nonelectronic means of delivery and including a Department-prescribed notice explaining the contents of the order and any protest or appeal rights. The service by a self-insured employer is a communication for purposes of the appeal timeline.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a very simple bill resulting from a court case that gives a self-insured employer the option to serve the closing order.

(Opposed) None.

Persons Testifying: Christine Brewer, Washington Self Insurers Association.

Persons Signed In To Testify But Not Testifying: None.