

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1521**

68th Legislature  
2023 Regular Session

Passed by the House April 22, 2023  
Yeas 84 Nays 14

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**Speaker of the House of  
Representatives**

Passed by the Senate April 20, 2023  
Yeas 29 Nays 19

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1521** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1521**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington                      68th Legislature                      2023 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Bronoske, Stonier, Wylie, Berry, and Pollet)

READ FIRST TIME 02/16/23.

1            AN ACT Relating to industrial insurance self-insured employer and  
2 third-party administrator penalties and duties; amending RCW  
3 51.48.080, 51.48.017, and 51.14.080; adding new sections to chapter  
4 51.14 RCW; creating a new section; prescribing penalties; and  
5 providing an effective date.

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

7            **Sec. 1.** RCW 51.48.080 and 2020 c 277 s 6 are each amended to  
8 read as follows:

9            (1) Every person, firm, or corporation who violates or fails to  
10 obey, observe, or comply with any statutory provision of this ((act))  
11 title or rule of the department promulgated under authority of this  
12 title, shall be subject to a penalty of not to exceed ((one thousand  
13 dollars)) \$1,000.

14            (2) The department may, for a violation of section 3 of this act,  
15 assess a penalty not to exceed three times the penalties provided in  
16 subsection (1) of this section, including adjustments pursuant to RCW  
17 51.48.095.

18            **Sec. 2.** RCW 51.48.017 and 2020 c 277 s 2 are each amended to  
19 read as follows:

1 (1) Every time a self-insurer unreasonably delays or refuses to  
2 pay benefits as they become due, the self-insurer shall pay a penalty  
3 not to exceed the greater of (~~one thousand dollars~~) \$1,000 or  
4 (~~twenty-five~~) 25 percent of: (a) The amount due or (b) each  
5 underpayment made to the claimant. For purposes of this section, "the  
6 amount due" means the total amount of payments due at the time of the  
7 calculation of the penalty.

8 (2) In making the determination of the penalty amount, the  
9 department shall weigh at least the following factors: The amount of  
10 any payment delayed, employer communication of the basis for or  
11 calculation of the payment, history or past practice of underpayments  
12 by the employer, department orders directing the payment, and any  
13 required adjustments to the amount of the payment.

14 (3) The director shall issue an order determining whether there  
15 was an unreasonable delay or refusal to pay benefits and the penalty  
16 amount owed within (~~thirty~~) 30 days upon the request of the  
17 claimant. Such an order shall conform to the requirements of RCW  
18 51.52.050.

19 (4) The penalty shall accrue for the benefit of the claimant and  
20 shall be paid to the claimant with the benefits which may be assessed  
21 under this title.

22 (5) The department may, for a violation of section 3 of this act,  
23 assess a penalty not to exceed three times the penalties provided in  
24 subsection (1) of this section, including adjustments pursuant to RCW  
25 51.48.095.

26 (6) This section applies to all requests for penalties made after  
27 September 1, 2020.

28 NEW SECTION. Sec. 3. A new section is added to chapter 51.14  
29 RCW to read as follows:

30 (1) All self-insured municipal employers and self-insured private  
31 sector firefighter employers and their third-party administrators  
32 have a duty of good faith and fair dealing to workers relating to all  
33 aspects of this title. The duty of good faith requires fair dealing  
34 and equal consideration for the worker's interests.

35 (2) A self-insured municipal employer or self-insured private  
36 sector firefighter employer or their third-party administrator  
37 violates its duty to the worker if it coerces a worker to accept less  
38 than the compensation due under this title, or otherwise fails to act

1 in good faith and fair dealing regarding its obligations under this  
2 title.

3 (3) The department shall adopt by rule additional applications of  
4 the duty of good faith and fair dealing as well as criteria for  
5 determining appropriate penalties for violations. In adopting a rule  
6 under this subsection, the department shall consider, among other  
7 factors, recognized and approved claim processing practices within  
8 the insurance industry, the department's own experience, and the  
9 industrial insurance and insurance laws and rules of this state.

10 (4) The department shall investigate each alleged violation of  
11 this section upon the filing of a written complaint or upon its own  
12 motion. After receiving notice and a request for a response from the  
13 department, the municipal employer or private sector firefighter  
14 employer or their third-party administrator may file a written  
15 response within 10 working days. If the municipal employer or private  
16 sector firefighter employer or their third-party administrator fails  
17 to file a timely response, the department shall issue an order based  
18 on available information.

19 (5) The department shall issue an order determining whether a  
20 violation of this section has occurred, in conformance with RCW  
21 51.52.050, within 30 calendar days of receipt of a complete complaint  
22 or its own motion. An order finding that a violation has occurred  
23 must also order the municipal employer or private sector firefighter  
24 employer to pay a penalty of one to 52 times the average weekly wage  
25 at the time of the order, depending upon the severity of the  
26 violation, which accrues for the benefit of the worker.

27 (6) The definitions in this subsection apply throughout this  
28 section unless the context clearly requires otherwise.

29 (a) "Municipal" means any counties, cities, towns, port  
30 districts, water-sewer districts, school districts, metropolitan park  
31 districts, fire districts, public hospital districts, regional fire  
32 protection service authorities, education service districts, or such  
33 other units of local government.

34 (b) "Private sector firefighter employer" means any private  
35 sector employer who employs over 50 firefighters, including  
36 supervisors, on a full-time, fully compensated basis as a firefighter  
37 of the employer's fire department, only with respect to their  
38 firefighters.

1       **Sec. 4.** RCW 51.14.080 and 1986 c 57 s 7 are each amended to read  
2 as follows:

3       (1) Certification of a self-insurer shall be withdrawn by the  
4 director upon one or more of the following grounds:

5       ~~((1))~~ (a) The employer no longer meets the requirements of a  
6 self-insurer; or

7       ~~((2))~~ (b) The self-insurer's deposit is insufficient; or

8       ~~((3))~~ (c) The self-insurer intentionally or repeatedly induces  
9 employees to fail to report injuries, induces claimants to treat  
10 injuries in the course of employment as off-the-job injuries,  
11 persuades claimants to accept less than the compensation due, or  
12 unreasonably makes it necessary for claimants to resort to  
13 proceedings against the employer to obtain compensation; or

14       ~~((4))~~ (d) The self-insurer habitually fails to comply with  
15 rules and regulations of the director regarding reports or other  
16 requirements necessary to carry out the purposes of this title; or

17       ~~((5))~~ (e) The self-insurer habitually engages in a practice of  
18 arbitrarily or unreasonably refusing employment to applicants for  
19 employment or discharging employees because of nondisabling bodily  
20 conditions; or

21       ~~((6))~~ (f) The self-insurer fails to pay an insolvency  
22 assessment under the procedures established pursuant to RCW  
23 51.14.077; or

24       (g) (i) For a self-insured municipal employer, the self-insurer  
25 has been found to have violated the self-insurer's duty of good faith  
26 and fair dealing three times within a three-year period.

27       (ii) For purposes of determining whether there have been three  
28 violations within a three-year period, the director must use the date  
29 of the department's order. Any subsequent order of the department,  
30 board of industrial insurance appeals, or courts affirming a  
31 violation occurred relates back to the date of the department's  
32 order.

33       (iii) Errors or delays that are inadvertent or minor are not  
34 considered violations of good faith and fair dealing for purposes of  
35 this subsection (1) (g).

36       (2) The director may delay withdrawing the certification of the  
37 self-insured municipal employer while the employer has an enforceable  
38 contract with a licensed third-party administrator that may not be  
39 legally terminated. However, the self-insured municipal employer may  
40 not renew or extend the contract.

1       (3) For the purposes of this section, "municipal" has the same  
2 meaning as defined in section 3 of this act.

3       NEW SECTION.   **Sec. 5.**   A new section is added to chapter 51.14  
4 RCW to read as follows:

5       Nothing in this act shall be interpreted as allowing a private  
6 cause of action outside of the original jurisdiction of the  
7 department to assess penalties and rights to appeal as provided in  
8 this title.

9       NEW SECTION.   **Sec. 6.**   This act applies to all claims regardless  
10 of the date of injury.

11       NEW SECTION.   **Sec. 7.**   This act takes effect July 1, 2024.

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