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ENGROSSED HOUSE BILL 1456

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State of Washington

53rd Legislature

1993 Regular Session

By Representatives King, G. Cole, Lisk, R. Johnson, Horn, Foreman,  
Sheahan and Chandler

Read first time 01/29/93. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to self-insured employers; and amending RCW  
2 51.32.055.

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

4 **Sec. 1.** RCW 51.32.055 and 1988 c 161 s 13 are each amended to read  
5 as follows:

6 (1) One purpose of this title is to restore the injured worker as  
7 (~~near~~) nearly as possible to the condition of self-support as an  
8 able-bodied worker. Benefits for permanent disability shall be  
9 determined under the director's supervision only after the injured  
10 worker's condition becomes fixed.

11 (2) All determinations of permanent disabilities shall be made by  
12 the department. Either the worker, employer, or self-insurer may make  
13 a request or (~~such~~) the inquiry may be initiated by the director on  
14 his or her own motion. (~~Such~~) Determinations shall be required in  
15 every instance where permanent disability is likely to be present. All  
16 medical reports and other pertinent information in the possession of or  
17 under the control of the employer or self-insurer shall be forwarded to  
18 the director with (~~such~~) the request(~~s~~).

1 (3) A request for determination of permanent disability shall be  
2 examined by the department and an order shall issue in accordance with  
3 RCW 51.52.050.

4 (4) The department may require that the worker present himself or  
5 herself for a special medical examination by a physician(~~(s)~~) or  
6 physicians(~~(s)~~) selected by the department, and the department may  
7 require that the worker present himself or herself for a personal  
8 interview. (~~In such event~~) The costs of (~~such~~) the examination or  
9 interview, including payment of any reasonable travel expenses, shall  
10 be paid by the department or self-insurer, as the case may be.

11 (5) The director may establish a medical bureau within the  
12 department to perform medical examinations under this section.  
13 Physicians hired or retained for this purpose shall be grounded in  
14 industrial medicine and in the assessment of industrial physical  
15 impairment. Self-insurers shall bear a proportionate share of the cost  
16 of (~~such~~) the medical bureau in a manner to be determined by the  
17 department.

18 (6) Where a dispute arises from the handling of any claim(~~s prior~~  
19 to) before the condition of the injured worker (~~becoming~~) becomes  
20 fixed, the worker, employer, or self-insurer may request the department  
21 to resolve the dispute or the director may initiate an inquiry on his  
22 or her own motion. In (~~such~~) these cases, the department shall  
23 proceed as provided in this section and an order shall issue in  
24 accordance with RCW 51.52.050.

25 (7)(a) (~~In the case of~~) If a claim(~~s~~) (i) is accepted by a  
26 self-insurer(~~s~~) after June 30, 1986, (~~and before July 1, 1990,~~  
27 which) (ii) involves only medical treatment and (~~or~~) the payment of  
28 temporary disability compensation under RCW 51.32.090 (~~and which~~) or  
29 only the payment of temporary disability compensation under RCW  
30 51.32.090, (iii) at the time medical treatment is concluded (~~do~~) does  
31 not involve permanent disability, (~~if the claim~~) and (iv) is one with  
32 respect to which the department has not intervened under subsection (6)  
33 of this section, and the injured worker has returned to work with the  
34 self-insured employer of record, (~~such~~) the claim(~~s~~) may be closed  
35 by the self-insurer, subject to reporting of claims to the department  
36 in a manner prescribed by department rules adopted under chapter 34.05  
37 RCW.

38 (b) All determinations of permanent disability for claims accepted  
39 by self-insurers after June 30, 1986, (~~and before July 1, 1990,~~)

1 shall be made by the self-insured section of the department under  
2 subsections (1) through (4) of this section.

3 (c) Upon closure of a claim~~((s))~~ under (a) of this subsection, the  
4 self-insurer shall enter a written order, communicated to the worker  
5 and the department self-insurance section, which contains the following  
6 statement clearly set forth in bold face type: "This order constitutes  
7 notification that your claim is being closed with medical benefits and  
8 temporary disability compensation only as provided, and with the  
9 condition you have returned to work with the self-insured employer. If  
10 for any reason you disagree with the conditions or duration of your  
11 return to work or the medical benefits or the temporary disability  
12 compensation that has been provided, you may protest in writing to the  
13 department of labor and industries, self-insurance section, within  
14 sixty days of the date you received this order." ~~((In the event))~~ If  
15 the department receives such a protest, the self-insurer's closure  
16 order shall be held in abeyance. The department shall review the claim  
17 closure action and enter a determinative order as provided for in RCW  
18 51.52.050.

19 (d) If within two years of claim closure the department determines  
20 that the self-insurer has made payment of benefits because of clerical  
21 error, mistake of identity, or innocent misrepresentation~~((r))~~ or the  
22 department discovers a violation of the conditions of claim closure,  
23 the department may require the self-insurer to correct the benefits  
24 paid or payable. This paragraph ~~((shall))~~ does not limit in any way  
25 the application of RCW 51.32.240.

26 ~~((In the case of))~~ If a claim~~((s))~~ (a) is accepted by a self-  
27 insurer~~((s))~~ after June 30, 1990, ~~((which))~~ (b) involves only medical  
28 treatment ~~((and which do))~~, (c) does not involve payment of temporary  
29 disability compensation under RCW 51.32.090, and ~~((which))~~ (d) at the  
30 time medical treatment is concluded ~~((do))~~ does not involve permanent  
31 disability, ~~((such))~~ the claim~~((s))~~ may be closed by the self-  
32 insurer~~((s))~~, subject to reporting of claims to the department in a  
33 manner prescribed by department rules ~~((promulgated pursuant to))~~  
34 adopted under chapter 34.05 RCW. Upon ~~((such))~~ closure of a claim, the  
35 self-insurer~~((s))~~ shall enter a written order, communicated to the  
36 worker, which contains the following statement clearly set forth in  
37 bold-face type: "This order constitutes notification that your claim  
38 is being closed with medical benefits only, as provided. If for any  
39 reason you disagree with this closure, you may protest in writing to

1 the Department of Labor and Industries, Olympia, within 60 days of the  
2 date you received this order. The department will then review your  
3 claim and enter a further determinative order." (~~In the event~~) If  
4 the department receives such a protest, it shall review the claim and  
5 enter a further determinative order as provided for in RCW 51.52.050.

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