
SUBSTITUTE SENATE BILL 5053

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Keiser, Kohl-Welles and Kline)

READ FIRST TIME 02/27/07.

1 AN ACT Relating to creating the office of the ombudsman for workers
2 of industrial insurance self-insured employers; amending RCW 51.44.150;
3 and adding new sections to chapter 51.14 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.14 RCW
6 to read as follows:

7 The office of the ombudsman for workers of industrial insurance
8 self-insured employers is created. The ombudsman shall be appointed by
9 the governor and report directly to the director of the department.
10 The ombudsman shall not be physically housed within the industrial
11 insurance division.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.14 RCW
13 to read as follows:

14 The person appointed ombudsman shall hold office for a term of six
15 years and shall continue to hold office until reappointed or until his
16 or her successor is appointed. The governor may remove the ombudsman
17 only for neglect of duty, misconduct, or inability to perform duties.

1 Any vacancy shall be filled by similar appointment for the remainder of
2 the unexpired term.

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

5 Any ombudsman authorized by this chapter shall have training or
6 experience, or both, in the following areas:

- 7 (1) Industrial insurance including self-insurance programs;
- 8 (2) The legal system;
- 9 (3) Dispute or problem resolution techniques, including
10 investigation, mediation, and negotiation.

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

13 During the first two years after the office is created, the
14 staffing level shall be no more than four persons, including the
15 ombudsman and any administrative staff. Thereafter, the staffing
16 levels shall be determined based upon the office's workload and whether
17 any additional locations are needed.

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

20 The ombudsman program shall have the following powers and duties:

- 21 (1) To act as an advocate for injured workers of self-insured
22 employers;
- 23 (2) To offer and provide information on industrial insurance as
24 appropriate to workers of self-insured employers;
- 25 (3) To identify, investigate, and facilitate resolution of
26 industrial insurance complaints from workers of self-insured employers;
- 27 (4) To maintain a statewide toll-free telephone number for the
28 receipt of complaints and inquiries; and
- 29 (5) To refer complaints to the department when appropriate.

30 NEW SECTION. **Sec. 6.** A new section is added to chapter 51.14 RCW
31 to read as follows:

32 (1) The office of the ombudsman shall develop referral procedures
33 for complaints by workers of self-insured employers. The department

1 shall act as quickly as possible on any complaint referred to them by
2 the ombudsman's office.

3 (2) The department shall respond to any complaint against a
4 self-insured employer referred to it by the ombudsman and shall forward
5 the ombudsman a summary of the results of the investigation and action
6 proposed or taken.

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 51.14 RCW
8 to read as follows:

9 (1) No ombudsman is liable for good faith performance of
10 responsibilities under this chapter.

11 (2) No discriminatory, disciplinary, or retaliatory action may be
12 taken against any employee of a self-insured employer for any
13 communication made, or information given or disclosed, to assist the
14 ombudsman in carrying out its duties and responsibilities, unless the
15 same was done maliciously. This subsection is not intended to infringe
16 on the rights of the employer to supervise, discipline, or terminate an
17 employee for other reasons.

18 (3) All communications by the ombudsman, if reasonably related to
19 the requirements of his or her responsibilities under this chapter and
20 done in good faith, are privileged and confidential, and this shall
21 serve as a defense to any action in libel or slander.

22 (4) Representatives of the office are exempt from being required to
23 testify as to any privileged or confidential matters except as the
24 court may deem necessary to enforce this chapter.

25 NEW SECTION. **Sec. 8.** A new section is added to chapter 51.14 RCW
26 to read as follows:

27 All records and files of the ombudsman relating to any complaint or
28 investigation made pursuant to carrying out its duties and the
29 identities of complainants, witnesses, or injured workers shall remain
30 confidential unless disclosure is authorized by the complainant or
31 injured worker or his or her guardian or legal representative. No
32 disclosures may be made outside the office without the consent of any
33 named witness or complainant unless the disclosure is made without the
34 identity of any of these individuals being disclosed.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 51.14 RCW
2 to read as follows:

3 The ombudsman shall integrate into existing posters and brochures
4 information explaining the ombudsman program. Both the posters and the
5 brochures shall contain the ombudsman's toll-free telephone number.
6 Every self-insured employer must place a poster in an area where all
7 employees have access to it. The self-insured employer must provide a
8 brochure to all injured employees at the time the employer is notified
9 of the worker's injury.

10 NEW SECTION. **Sec. 10.** A new section is added to chapter 51.14 RCW
11 to read as follows:

12 (1) To provide start-up funding for the ombudsman's office, the
13 department shall impose a one-time assessment on all self-insurers.
14 The amount of the assessment shall be determined by the department and
15 shall not exceed the amount needed to pay the start-up costs.

16 (2) Ongoing funding for the office shall be obtained as part of an
17 annual administrative assessment of self-insurers under RCW 51.44.150.
18 This assessment shall be proportionately based on the number of claims
19 for each self-insurer during the past year.

20 **Sec. 11.** RCW 51.44.150 and 1971 ex.s. c 289 s 59 are each amended
21 to read as follows:

22 The director shall impose and collect assessments each fiscal year
23 upon all self-insurers in the amount of the estimated costs of
24 administering their portion of this title during such fiscal year.
25 These assessments shall also include the assessments for the
26 ombudsman's office provided for in section 10 of this act. The time
27 and manner of imposing and collecting assessments due the department
28 shall be set forth in regulations promulgated by the director in
29 accordance with chapter 34.05 RCW.

30 NEW SECTION. **Sec. 12.** A new section is added to chapter 51.14 RCW
31 to read as follows:

32 (1) The ombudsman shall provide the governor with an annual report
33 that includes the following:

34 (a) A description of the issues addressed during the past year and

1 a very brief description of case scenarios in a form that does not
2 compromise confidentiality;

3 (b) An accounting of the monitoring activities by the ombudsman;
4 and

5 (c) An identification of the deficiencies in the industrial
6 insurance system related to self-insurers, if any, and recommendations
7 for remedial action in policy or practice.

8 (2) The first annual report shall be due on or before October 1,
9 2008. Subsequent reports shall be due on or before October 1st.

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