

# SENATE BILL REPORT

## SB 6035

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As of March 12, 2009

**Title:** An act relating to retrospective rating plans.

**Brief Description:** Concerning retrospective rating plans.

**Sponsors:** Senators Kohl-Welles, McDermott, Franklin, Keiser, Jacobsen, Fraser, Regala, Haugen, Murray, Kline and McAuliffe.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 2/17/09, 2/19/09.

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Staff:** Mac Nicholson (786-7445)

**Background:** A retrospective rating plan is an optional program offered by the Department of Labor and Industries (L&I) that allows groups of employers to assume a portion of industrial insurance risk. Employers in a retrospective rating program group their individual premiums and claim losses as a single entity. Premiums for the group are adjusted based on the group's actual claim losses during the coverage period. The group will receive a refund if the combined premiums exceed the combined claim losses, and the group will be assessed additional premiums if the combined claim losses exceed the combined premiums.

A retrospective rating group must be composed of employers who are substantially similar, considering their employees' services or activities, and the group must seek to substantially improve workplace safety and accident prevention for the group's members. Sponsors of a retrospective rating group must exist for a purpose independent of insurance purposes and must select a single, broad industry or business category for the group. Once a category is selected, L&I must allow all risk classifications reasonably related to that business or industry category into the group.

**Summary of Bill:** A number of legislative findings are made relating to retrospective rating plans. The stated intent of the legislation is to allow and encourage retrospective rating group sponsoring entities to use retrospective rating refunds to create and maintain programs that improve workplace safety, prevent accidents, and improve worker outcomes while distributing the remainder of the refund to employer members of the group and to make

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information concerning the sponsoring entities' administration of the program publicly available.

L&I must conduct an actuarial review of the retrospective rating program annually for five years beginning January 1, 2010. The review must include an examination of the method used to calculate retrospective premiums, refunds, and assessments; an examination of the impact retrospective rating refunds and assessments have on the accident fund; and an examination of other factors necessary to conduct an actuarial review. L&I must report to the Legislature annually on the actuarial review.

Sponsoring entities must distribute the full amount of the refund to employers in the retrospective rating group within 90 days of receipt of the refund. The distribution must be based on a distribution plan that is disclosed to member employers and L&I. L&I must make the distribution plan publicly available, excluding financial information specific to individual employer members. A sponsoring entity may keep a portion of the refund for reasonable administrative costs; costs directly related to the development and implementation of a safety plan to increase workplace safety and accident prevention; costs directly related to claims assistance provided to member employers; and to establish and maintain reserves for the sole purpose of covering the costs of future potential assessments. Any amount retained for future potential assessments must be distributed to employer members within 90 days after the possibility of future assessments has expired.

The sponsoring entity must keep a detailed list of costs for which a portion of the refund was retained and disclose this list to member employers and to L&I. The sponsoring entity must also disclose specific purposes for which administrative costs were incurred.

L&I must define required elements of a retrospective rating safety plan through the rule making process, and sponsoring entities must submit safety plans to L&I annually.

Sponsoring entities cannot require a participating member to reenroll in the group's future coverage period, maintain membership in the sponsoring entity or any other organization, or contribute funds to the sponsoring entity or any other organization as a condition of receiving a refund for a coverage period or participating in the retrospective rating activities of the sponsoring entity.

Retrospective rating groups must be made up of substantially similar employers, and once an industry or business category is selected, only employers in that category can be in the retrospective rating group. Employers that are assigned to risk classifications identified by L&I as belonging in a specific industry or business category must be allowed into a retrospective rating group that has selected that category. L&I must develop rules for group participation of employers assigned to risk classifications that do not fall within a category.

**Appropriation:** None.

**Fiscal Note:** Requested on February 14, 2009.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.