
ENGROSSED SUBSTITUTE HOUSE BILL 1451

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Mielke, Lisk, McMorris, Sheldon, Mastin, Horn, Thompson, Hargrove, Sherstad and Basich)

Read first time 02/13/95.

1 AN ACT Relating to expansion of employer workers' compensation
2 group self-insurance; amending RCW 48.62.011, 51.14.080, and 51.48.025;
3 adding a new chapter to Title 51 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** (1) This chapter applies to self-insurance
6 groups under this title, except for self-insurance groups covered under
7 RCW 51.14.150. However, a self-insurance group under RCW
8 51.14.150(2)(c) may elect to be covered under this chapter.

9 (2)(a) Except as otherwise provided in (b) of this subsection,
10 self-insurance groups under this chapter are subject to all the
11 requirements applying to self-insured employers under this title.

12 (b) With the exception of RCW 51.14.080, 51.14.095, 51.14.100,
13 51.14.110, 51.14.120, 51.14.130, and 51.14.140, chapter 51.14 RCW does
14 not apply to self-insurance groups under this chapter.

15 NEW SECTION. **Sec. 2.** Unless the context clearly requires
16 otherwise, the definitions in this section apply throughout this
17 chapter.

1 (1) "Administrator" means an individual, partnership, or
2 corporation engaged by a self-insurance group's board of trustees to
3 carry out the policies established by the group's board of trustees and
4 to provide day-to-day management of the group.

5 (2) "Insolvent" or "insolvency" means the inability of a self-
6 insurance group to pay its outstanding lawful obligations as they
7 mature in the regular course of business, as shown either by an excess
8 of its required reserves and other liabilities over its assets or by it
9 not having sufficient assets to reinsure all of its outstanding
10 liabilities after paying all accrued claims owed by it.

11 (3) "Net premium" means premium derived from standard premium
12 adjusted by any advance premium discounts.

13 (4) "Service company" means any person or entity that provides
14 services to a self-insurance group not provided by the administrator,
15 including but not limited to:

16 (a) Claims adjustment;

17 (b) Safety engineering;

18 (c) Compilation of statistics and the preparation of premium, loss,
19 and tax reports;

20 (d) Preparation of other required self-insurance reports;

21 (e) Development of members' assessments and fees; and

22 (f) Administration of a claims fund.

23 (5) "Standard premium" means the premium derived from the manual
24 rates adjusted by experience modification factors but before advance
25 premium discounts.

26 (6) "Self-insurance group" or "group" means: (a) A not-for-profit
27 group consisting of five or more employers who are engaged in the same
28 or similar type of business and who enter into agreements to pool
29 assets to cover the employers' liabilities under this title; or (b) two
30 or more local government entities as specified in section 4 of this
31 act.

32 NEW SECTION. **Sec. 3.** No person, group, or other entity shall act
33 as a self-insurance group under this chapter unless it has been issued
34 a certificate of approval by the director.

35 NEW SECTION. **Sec. 4.** Two or more local government entities, as
36 defined in RCW 48.62.021, that are jointly self-insured under chapter
37 48.62 RCW may also apply for and be issued a certificate of approval

1 under this chapter as a workers' compensation self-insurance group to
2 cover the entities' liabilities under this title. The entities may
3 contract for or hire personnel to provide administrative services and
4 other services as required or permitted by this chapter and shall
5 possess any other powers and perform all other functions reasonably
6 necessary to carry out the purposes of this chapter. The entities
7 applying for a certificate of approval under this chapter shall provide
8 notice of the application to the state risk manager, as defined in RCW
9 48.62.021.

10 NEW SECTION. **Sec. 5.** (1) A proposed self-insurance group shall
11 file with the director its application for a certificate of approval as
12 a self-insurance group accompanied by a nonrefundable filing fee in an
13 amount of one hundred fifty dollars or such larger sum as the director
14 finds necessary for the administrative costs of evaluating the group's
15 qualifications. The application shall include the group's name,
16 location of its principal office, date of organization, name and
17 address of each member, and such other information as the director may
18 reasonably require together with the following information:

19 (a) Proof of compliance with the provisions of subsection (2) of
20 this section;

21 (b) A copy of the articles of the group, if any;

22 (c) A copy of agreements with the administrator and with any
23 service company;

24 (d) A copy of the bylaws of the proposed group;

25 (e) A copy of the group's safety and occupational health plan;

26 (f) A copy of the agreement between the group and each member
27 securing the payment of each member's liability to its employees
28 covered by this title, and the payment of assessments under section 18
29 of this act;

30 (g) A copy of the indemnity agreement jointly and severally binding
31 each member for the liability of the group and other members of the
32 group under this title;

33 (h) Designation of the initial board of trustees and administrator;

34 (i) The address in this state where the books and records,
35 including claims files, of the group will be maintained at all times;

36 (j) A pro forma financial statement on a form acceptable to the
37 director showing the financial ability of the group to pay the
38 obligations of its members under this title; and

1 (k) Proof of payment to the group by each member of not less than
2 twenty-five percent of that member's first year estimated annual net
3 premium on a date prescribed by the director. Each payment shall be
4 considered to be part of the first year premium payment of each member
5 if the proposed group is granted a certificate of approval.

6 (2) To obtain and maintain its certificate of approval, a self-
7 insurance group shall comply with the following requirements as well as
8 any other requirements established by rule of the director:

9 (a) A combined net worth of all members of the group of at least
10 two million dollars;

11 (b) Security in the form and amount prescribed by the director
12 which shall be provided by a surety bond, security deposit, letter of
13 credit, or financial security endorsement, or any combination thereof.
14 If a surety bond is used to meet the security requirement, it shall be
15 issued by a corporate surety company authorized to transact business in
16 this state. If a security deposit is used to meet the security
17 requirement, securities shall be limited to: Bonds or other evidences
18 of indebtedness issued, assumed, or guaranteed by the United States, or
19 by an agency or instrumentality thereof; certificates of deposit in a
20 federally insured bank; shares or savings deposits in a federally
21 insured savings and loan association or credit union; or any bond or
22 security issued by a state of the United States and backed by the full
23 faith and credit of the state. Any such securities shall be deposited
24 in an escrow account in a depository designated by the director.
25 Interest accruing on a negotiable security so deposited shall be
26 collected and transmitted to the depositor provided the depositor is
27 not in default. A financial security endorsement issued as part of an
28 acceptable excess insurance contract may be used to meet all or part of
29 the security requirement. The bond, security deposit, letter of
30 credit, or financial security endorsement shall be for the benefit of
31 the state solely to pay claims and associated expenses and payable on
32 the failure of the group to pay workers' compensation benefits that it
33 is legally obligated to pay under this title. The director may
34 establish and adjust, from time to time, requirements for the amount of
35 security based on differences among groups in their size, types of
36 employment, years in existence, and other relevant factors;

37 (c) Specific and aggregate excess insurance in an approved form, in
38 a stated amount, and by an insurance company authorized to transact
39 insurance business in the state of Washington;

1 (d) An estimated annual standard premium of at least one million
2 dollars during a group's first year of operation. Thereafter, the
3 annual standard premium per member shall be at least five hundred
4 dollars;

5 (e) An indemnity agreement jointly and severally binding the group
6 and each member thereof to meet the obligations of each member under
7 this title. The indemnity agreement shall be in a form prescribed by
8 the director and shall include minimum uniform substantive provisions
9 prescribed by the director. Subject to the director's approval, a
10 group may add other provisions needed because of its particular
11 circumstances;

12 (f) A fidelity bond for the administrator in a form and amount
13 prescribed by the director; and

14 (g) A fidelity bond for the service company in a form and amount
15 prescribed by the director. The director may also require the service
16 company providing claim services to furnish a performance bond in a
17 form and amount prescribed by the director.

18 (3) A group shall notify the director of any change in the
19 information required to be filed under subsection (1) of this section
20 or in the manner of its compliance with subsection (2) of this section
21 no later than thirty days after the change.

22 (4) The director shall evaluate the information provided by the
23 application required to be filed under subsection (1) of this section
24 to assure that no gaps in funding exist and that funds necessary to pay
25 benefits under this title will be available on a timely basis.

26 (5) The director shall act on a completed application for a
27 certificate of approval as a self-insurance group within sixty days.
28 If, because of the number of applications, the director is unable to
29 act on an application within this period, the director shall have an
30 additional sixty days to so act.

31 (6) The director shall issue a certificate of approval on finding
32 that the proposed self-insurance group has met all the requirements of
33 this chapter, or the director shall issue an order denying the
34 certificate on finding that the proposed group does not meet all
35 requirements. An order denying a certificate shall set forth the
36 reasons for the denial.

37 (7) Each self-insurance group shall be deemed to have appointed the
38 director as its attorney-in-fact to receive service of legal process
39 issued against it in this state. The appointment shall be irrevocable,

1 shall bind any successor in interest, and shall remain in effect as
2 long as there is in this state any obligation or liability of the group
3 for benefits under this title.

4 NEW SECTION. **Sec. 6.** (1) A certificate of approval issued by the
5 director to a self-insurance group authorizes the group to carry its
6 own liability under this title to its employees covered by this title.
7 The certificate of approval remains in effect until terminated at the
8 request of the group or revoked by the director pursuant to section 21
9 of this act.

10 (2)(a) The director may grant the request of any self-insurance
11 group to terminate its certificate of approval, effective not less than
12 thirty days after the request for termination. However, the
13 termination of a group under this section may not be effective until
14 each member of the group has filed with the director for industrial
15 insurance coverage under this title, has become a member of another
16 self-insurance group, has become an approved self-insurer, or has
17 ceased being an employer.

18 (b) A self-insurance group that has had its certificate of approval
19 terminated under this section must maintain surety deemed sufficient in
20 the director's discretion to cover the entire liability of the group to
21 its employees for injuries or occupational diseases that occurred
22 during the period that the group was self-insured.

23 (3) Subject to the approval of the director, a group may merge with
24 another group engaged in the same or similar type of business only if
25 the resulting group assumes in full all obligations of the merging
26 groups. The director may hold a hearing on the merger and shall do so
27 if any party, including a member of either group, so requests.

28 NEW SECTION. **Sec. 7.** Each self-insurance group shall be operated
29 by a board of trustees which shall consist of not less than five
30 persons elected by the members of a group for stated terms of office.
31 At least two-thirds of the trustees shall be employees, officers, or
32 directors of members of the group. The group's administrator, service
33 company, or any owner, officer, or employee of, or any other person
34 affiliated with such administrator or service company shall not serve
35 on the board of trustees of the group. All trustees shall be residents
36 of this state or officers of corporations authorized to do business in
37 this state. The board of trustees of each group shall ensure that all

1 claims under this title are paid promptly and shall take all necessary
2 precautions to safeguard the assets of the group, including all of the
3 following:

4 (1) The board of trustees shall:

5 (a) Maintain responsibility for all moneys collected or disbursed
6 from the group and segregate all moneys into a claims fund account and
7 an administrative fund account. At least seventy percent of the net
8 premium shall be placed into a designated depository for the sole
9 purpose of paying claims, allocated claims expenses, reinsurance or
10 excess insurance, and special fund contributions, including second
11 injury and other loss-related funds. This shall be called the claims
12 fund account. The remaining net premium shall be placed into a
13 designated depository for the payment of taxes, general regulatory fees
14 and assessments, and administrative costs. This shall be called the
15 administrative fund account. The director may approve an
16 administrative fund account of more than thirty percent and a claims
17 fund account of less than seventy percent only if the group shows to
18 the director's satisfaction that more than thirty percent is needed for
19 an effective safety and loss control program or the group's aggregate
20 excess insurance attaches at less than seventy percent;

21 (b) Maintain minutes of its meetings and make such minutes
22 available to the director;

23 (c) Designate an administrator to carry out the policies
24 established by the board of trustees and to provide day-to-day
25 management of the group, and delineate in the written minutes of its
26 meetings the areas of authority it delegates to the administrator; and

27 (d) Retain an independent certified public accountant to prepare
28 the statement of financial condition required by section 11(1) of this
29 act.

30 (2) The board of trustees shall not:

31 (a) Extend credit to individual members for payment of a premium,
32 except pursuant to payment plans approved by the director; or

33 (b) Borrow any moneys from the group or in the name of the group
34 except in the ordinary course of business without first advising the
35 director of the nature and purpose of the loan and obtaining prior
36 approval from the director.

37 NEW SECTION. **Sec. 8.** (1) An employer joining a self-insurance
38 group after the group has been issued a certificate of approval shall

1 submit an application for membership to the board of trustees or its
2 administrator, and enter into the indemnity agreement required by
3 section 5(2)(e) of this act. Membership may take effect no earlier
4 than the date of approval of the application. The application for
5 membership and its approval shall be maintained as permanent records of
6 the board of trustees and a copy filed with the director.

7 (2) Individual members of a group shall be subject to cancellation
8 by the group pursuant to the group's bylaws or by the director for a
9 violation of RCW 51.14.080(2). In addition, individual members may
10 elect to terminate their participation in the group. The group shall
11 notify the director of the termination or cancellation of a member
12 within ten days and shall maintain coverage of each canceled or
13 terminated member for thirty days after such notice, at the terminating
14 member's expense, unless the group is notified sooner by the department
15 that the canceled or terminated member has filed with the director for
16 industrial insurance under this title, has become an approved self-
17 insurer, has become a member of another self-insurance group, or has
18 ceased being an employer.

19 (3) The group shall pay all benefits under this title for which
20 each member incurs liability during its period of membership. A member
21 who elects to terminate its membership or is canceled by a group
22 remains jointly and severally liable for the obligations under this
23 title of the group and its members that were incurred during the
24 canceled or terminated member's period of membership.

25 (4) A group member is not relieved of its liabilities under this
26 title incurred during its period of membership except through payment
27 by the group or the member of the liabilities.

28 (5) The insolvency or bankruptcy of a member does not relieve the
29 group or any other member of liability for the payment of any
30 obligations under this title incurred during the insolvent or bankrupt
31 member's period of membership.

32 NEW SECTION. **Sec. 9.** (1) No service company or its employees,
33 officers, or directors may be an employee, officer, or director of or
34 have either a direct or indirect financial interest in an
35 administrator. No administrator or its employees, officers, or
36 directors may be an employee, officer, or director of or have either a
37 direct or indirect financial interest in a service company.

1 (2) The service contract shall state that unless the director
2 permits or requires otherwise the service company shall handle, to
3 their conclusion, all claims and other obligations incurred during the
4 contract period.

5 NEW SECTION. **Sec. 10.** Except for an employee of a self-insurance
6 group, its administrator, or its service company, any person soliciting
7 membership in a self-insurance group under this chapter must have a
8 solicitation permit as provided in chapter 48.06 RCW.

9 NEW SECTION. **Sec. 11.** (1) Each self-insurance group shall submit
10 to the director a statement of financial condition audited by an
11 independent certified public accountant on or before the last day of
12 the sixth month following the end of the group's fiscal year. The
13 financial statement shall be on a form prescribed by the director and
14 shall include, but not be limited to, actuarially appropriate reserves
15 for known claims and expenses associated therewith, claims incurred but
16 not reported and expenses associated therewith, unearned premiums, and
17 bad debts, which reserves shall be shown as liabilities. An actuarial
18 opinion regarding reserves for known claims and expenses associated
19 therewith and claims incurred but not reported and expenses associated
20 therewith shall be included in the audited financial statement. The
21 actuarial opinion shall be approved by the director or be given by a
22 member of the American academy of actuaries or other qualified loss
23 reserve specialist as defined in the annual statement adopted by the
24 national association of insurance commissioners.

25 (2) The director may prescribe the format and frequency of other
26 reports which may include, but shall not be limited to, payroll audit
27 reports, summary loss reports, and quarterly financial statements.

28 NEW SECTION. **Sec. 12.** No person may make a material
29 misrepresentation or omission of a material fact in connection with the
30 solicitation of membership in a self-insurance group.

31 NEW SECTION. **Sec. 13.** Funds not needed for current obligations
32 may be invested by a self-insurance group's board of trustees in
33 accordance with chapter 48.13 RCW.

1 NEW SECTION. Sec. 14. (1) Every self-insurance group shall adhere
2 to the uniform classification system, uniform experience rating plan,
3 and manual rates and rules filed with the director by an advisory
4 organization designated by the director.

5 (2) Premium contributions to the group shall be determined by
6 applying the manual rates and rules to the appropriate classification
7 of each member which shall be adjusted by each member's experience
8 credit or debit. Subject to approval by the director, premium
9 contributions may also be reduced by an advance premium discount
10 reflecting the group's expense levels and loss experience. A group may
11 apply to the director for permission to make its own rates, and if
12 permission is granted, the rates must be based on at least five years
13 of the group's experience.

14 (3) Each group shall be audited at least annually by an auditor
15 acceptable to the director to verify proper classifications, experience
16 rating, payroll, and rates. A report of the audit shall be filed with
17 the director in a form acceptable to the director. A group or any
18 member thereof may request a hearing on any objection to the
19 classification. If the director determines that as a result of an
20 improper classification a member's premium contribution is
21 insufficient, the director shall order the group to assess that member
22 an amount equal to the deficiency. If the director determines that as
23 a result of an improper classification a member's premium is excessive,
24 the director shall order the group to refund to the member the excess
25 collected. The audit shall be at the expense of the group.

26 NEW SECTION. Sec. 15. (1) Any moneys for a fund year in excess of
27 the amount necessary to fund all obligations under this title for that
28 fund year may be declared to be refundable by the self-insurance
29 group's board of trustees not less than twelve months after the end of
30 the fund year.

31 (2) Each member shall be given a written description of the refund
32 plan at the time of application for membership. A refund for any fund
33 year shall be paid only to those employers who remain participants in
34 the group for the entire fund year. Payment of a refund based on a
35 previous fund year shall not be contingent on continued membership in
36 the group after that fund year.

1 NEW SECTION. **Sec. 16.** (1) Each self-insurance group shall
2 establish to the satisfaction of the director a premium payment plan
3 which shall include an initial payment by each member of at least
4 twenty-five percent of that member's annual premium before the start of
5 the group's fund year and payment of the balance of each member's
6 annual premium in monthly or quarterly installments.

7 (2) Each group shall establish and maintain actuarially appropriate
8 loss reserves which shall include reserves for known claims and
9 expenses associated therewith and claims incurred but not reported and
10 expenses associated therewith.

11 (3) Each group shall establish and maintain bad debt reserves based
12 on the historical experience of the group or other groups.

13 NEW SECTION. **Sec. 17.** (1) If the assets of a self-insurance group
14 are at any time insufficient to enable the group to discharge its
15 liabilities under this title and to maintain the reserves required of
16 it under this chapter, it shall forthwith make up the deficiency or
17 levy an assessment on its members for the amount needed to make up the
18 deficiency.

19 (2) In the event of a deficiency in any fund year, the deficiency
20 shall be made up immediately from surplus from a fund year other than
21 the current fund year, administrative funds, assessment of the
22 membership if ordered by the group, or such alternative method as the
23 director approves or directs. The director shall be notified prior to
24 any transfer of surplus funds from one fund year to another.

25 (3)(a) If the group fails to assess its members or to otherwise
26 make up such deficit within thirty days, the director shall order it to
27 do so.

28 (b) If the group fails to make the required assessment of its
29 members within thirty days after the director orders it to do so, or if
30 the deficiency is not fully made up within sixty days after the date on
31 which such assessment is made, or within such longer period of time as
32 specified by the director, the group shall be deemed to be insolvent.

33 (c) The director shall proceed against an insolvent group in the
34 same manner as the director would proceed against an insolvent self-
35 insurer under chapter 51.14 RCW.

36 (d) If a self-insurance group is liquidated, the director shall
37 levy an assessment on its members for an amount determined by the

1 director to be necessary to discharge all liabilities of the group,
2 including the reasonable costs of liquidation.

3 (4) A self-insurance group insolvency trust shall be established
4 following the rules pursuant to RCW 51.14.077.

5 NEW SECTION. **Sec. 18.** If liquidation occurs under section 17 of
6 this act, after exhausting the security required under section 5(2)(b)
7 of this act, the director shall levy an assessment against all self-
8 insurance groups under this chapter to assure prompt payment of such
9 benefits. The assessment on each group shall be based on the
10 proportion that the premium of each group bears to the total premium of
11 all groups under this chapter. The director may exempt a group from
12 assessment on finding that the payment of the assessment would render
13 the group insolvent. Such assessment shall not relieve any member of
14 an insolvent group of its joint and several liability. After any such
15 assessment is made, the director shall take action to enforce the joint
16 and several liability provisions of the insolvent group's indemnity
17 agreement, and shall recoup all costs incurred by the director in
18 enforcing such joint and several liability provisions, amounts that the
19 director assessed any other groups pursuant to this section, and any
20 obligations included within section 17(3)(d) of this act.

21 NEW SECTION. **Sec. 19.** After notice and opportunity for a hearing,
22 the director may impose a monetary penalty on any person or self-
23 insurance group found to be in violation of any provision of this
24 chapter or of any rules adopted under this chapter. Such monetary
25 penalty shall not exceed one thousand dollars for each violation and
26 shall not exceed ten thousand dollars in the aggregate. The amount of
27 any monetary penalty shall be paid to the director for deposit in the
28 state general fund.

29 NEW SECTION. **Sec. 20.** (1) After notice and opportunity for a
30 hearing, the director may issue an order requiring a person or self-
31 insurance group to cease and desist from engaging in an act or practice
32 found to be in violation of this chapter or of any rules adopted under
33 this chapter.

34 (2) On a finding, after notice and opportunity for a hearing, that
35 any person or self-insurance group has violated a cease and desist
36 order, the director may do either or both of the following:

- 1 (a) Impose a monetary penalty of not more than ten thousand dollars
2 for each violation of the order not to exceed an aggregate monetary
3 penalty of one hundred thousand dollars; or
4 (b) Revoke the group's certificate of approval.

5 NEW SECTION. **Sec. 21.** (1) After notice and opportunity for a
6 hearing, the director may revoke a self-insurance group's certificate
7 of approval if it is found to be insolvent, fails to pay a regulatory
8 fee, assessment, or special fund contribution imposed on it, or fails
9 to comply with any of the provisions of this chapter, with any rules
10 adopted under this chapter, or with any lawful order of the director,
11 within the time prescribed. In addition, the director may revoke a
12 group's certificate of approval if, after notice and opportunity for a
13 hearing, the director finds that the certificate of approval that was
14 issued to the group was obtained by fraud, that there was a material
15 misrepresentation in the application for the certificate of approval,
16 or that the group or its administrator has misappropriated, converted,
17 illegally withheld, or refused to pay over on proper demand any moneys
18 that belong to a member, an employee of a member, or a person otherwise
19 entitled thereto and that have been entrusted to the group or its
20 administrator in its fiduciary capacities.

21 (2) The director shall serve on the self-insurance group,
22 personally or by certified mail, a notice of intention to revoke the
23 group's certificate of approval, which notice shall describe the nature
24 and location of the plants or operations involved and the specific
25 nature of the reasons for the decision. The notice shall include: (a)
26 The period of time within which the grounds for revocation existed or
27 arose; (b) a directive to the group specifying the manner in which the
28 grounds may be eliminated; and (c) the date, not less than thirty days
29 after the self-insurer's receipt of the notice, when the certificate of
30 approval will be withdrawn in the absence of a satisfactory elimination
31 of the grounds for withdrawal of the certificate.

32 (3) An appeal of any action by the director under this section may
33 be taken by the self-insurance group. Proceedings on the appeal shall
34 be as prescribed in this title. Appeal by a group of a notice of
35 intention to withdraw a certificate of approval or to take corrective
36 action shall not act as a stay of the withdrawal or corrective action
37 unless the board or court, for good cause shown, orders otherwise.

1 NEW SECTION. **Sec. 22.** The director may adopt rules to implement
2 this chapter, including rules providing for administrative assessments
3 of self-insurance groups under this chapter.

4 NEW SECTION. **Sec. 23.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 **Sec. 24.** RCW 48.62.011 and 1991 sp.s. c 30 s 1 are each amended to
9 read as follows:

10 This chapter is intended to provide the exclusive source of local
11 government entity authority to individually or jointly self-insure
12 risks, jointly purchase insurance or reinsurance, and to contract for
13 risk management, claims, and administrative services. This chapter
14 shall be liberally construed to grant local government entities maximum
15 flexibility in self-insuring to the extent the self-insurance programs
16 are operated in a safe and sound manner. This chapter is intended to
17 require prior approval for the establishment of every individual local
18 government self-insured employee health and welfare benefit program and
19 every joint local government self-insurance program. In addition, this
20 chapter is intended to require every local government entity that
21 establishes a self-insurance program not subject to prior approval to
22 notify the state of the existence of the program and to comply with the
23 regulatory and statutory standards governing the management and
24 operation of the programs as provided in this chapter. This chapter is
25 not intended to authorize or regulate self-insurance of unemployment
26 compensation under chapter 50.44 RCW, or industrial insurance under
27 (~~chapter 51.14~~) Title 51 RCW.

28 **Sec. 25.** RCW 51.14.080 and 1986 c 57 s 7 are each amended to read
29 as follows:

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

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

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

35 (~~(3)~~) (c) The self-insurer intentionally or repeatedly induces
36 employees to fail to report injuries, induces claimants to treat

1 injuries in the course of employment as off-the-job injuries, persuades
2 claimants to accept less than the compensation due, or unreasonably
3 makes it necessary for claimants to resort to proceedings against the
4 employer to obtain compensation; or

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

8 ~~((5))~~ (e) The self-insurer habitually engages in a practice of
9 arbitrarily or unreasonably refusing employment to applicants for
10 employment or discharging employees because of nondisabling bodily
11 conditions; or

12 ~~((6))~~ (f) The self-insurer fails to pay an insolvency assessment
13 under the procedures established pursuant to RCW 51.14.077.

14 (2) Certification of a self-insurance group subject to chapter
15 51.-- RCW (sections 1 through 23 of this act) shall be withdrawn by the
16 director or an employer's membership in the group shall be canceled by
17 the director upon any of the grounds listed in subsection (1) of this
18 section or upon any of the following grounds, or both:

19 (a) The self-insurance group, employer member of the group, or
20 group's or employer's representative unreasonably attempts to influence
21 an employee's attending physician with regard to releasing the employee
22 for return to work;

23 (b) The self-insurance group, employer member of the group, or
24 group's or employer's representative requires claimants to submit to an
25 unreasonable number of medical examinations as a condition of receiving
26 benefits under this title; or

27 (c) The self-insurance group, employer member of the group, or
28 group's or employer's representative unreasonably interferes with the
29 claimants' choice of health services providers to treat the injuries
30 covered by this title.

31 **Sec. 26.** RCW 51.48.025 and 1985 c 347 s 8 are each amended to read
32 as follows:

33 (1) No employer may discharge or in any manner discriminate against
34 any employee because such employee has filed or communicated to the
35 employer an intent to file a claim for compensation or exercises any
36 rights provided under this title. However, nothing in this section
37 prevents an employer from taking any action against a worker for other
38 reasons including, but not limited to, the worker's failure to observe

1 health or safety standards adopted by the employer, or the frequency or
2 nature of the worker's job-related accidents.

3 (2) Any employee who believes that he or she has been discharged or
4 otherwise discriminated against by an employer in violation of this
5 section may file a complaint with the director alleging discrimination
6 within ninety days of the date of the alleged violation. Upon receipt
7 of such complaint, the director shall cause an investigation to be made
8 as the director deems appropriate. Within ninety days of the receipt
9 of a complaint filed under this section, the director shall notify the
10 complainant of his or her determination. If upon such investigation,
11 it is determined that this section has been violated, the director
12 shall bring an action in the superior court of the county in which the
13 violation is alleged to have occurred.

14 (3) If the director determines that this section has not been
15 violated, the employee may institute the action on his or her own
16 behalf.

17 (4) In any action brought under this section, the superior court
18 shall have jurisdiction, for cause shown, to restrain violations of
19 subsection (1) of this section and to order all appropriate relief
20 including rehiring or reinstatement of the employee with back pay. The
21 party who prevails in an action under this section against a self-
22 insurance group subject to chapter 51.-- RCW (sections 1 through 23 of
23 this act) or against an employer member of such a group shall be
24 entitled to recover reasonable attorneys' fees.

25 NEW SECTION. **Sec. 27.** Sections 1 through 23 of this act shall
26 constitute a new chapter in Title 51 RCW.

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