

# SENATE BILL REPORT

## SB 5341

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As Reported by Senate Committee On:  
Labor, Commerce & Consumer Protection, February 3, 2011

**Title:** An act relating to notice to injured workers by self-insured employers.

**Brief Description:** Requiring notice to injured workers by self-insured employers.

**Sponsors:** Senators Keiser, Conway, Kohl-Welles and Kline.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 1/25/11, 2/01/11, 2/03/11 [DPS, DNP].

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

**Majority Report:** That Substitute Senate Bill No. 5341 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

**Minority Report:** Do not pass.

Signed by Senators Holmquist Newbry, Ranking Minority Member; King, Assistant Ranking Minority Member; Hewitt.

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

**Background:** Qualified employers may self-insure for workers compensation purposes. To be certified as self-insured, an employer must demonstrate to the Department of Labor and Industries (L&I) that the employer has sufficient financial ability to ensure prompt payment of compensation to its injured workers. Self-insurers must provide their injured workers with the same benefits that are provided to injured workers in state fund claims, including medical and time-loss benefits, permanent partial and total disability benefits, and death benefits. Time-loss benefits, also known as temporary disability benefits, are paid to injured workers who are unable to work because of their injury. Temporary disability benefits are paid according to a formula set in statute, and are based on the monthly wages that the worker was receiving from all employment at the time of injury. A self-insured employer who fails to comply with industrial insurance laws and regulations is subject to financial penalty and decertification.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

L&I retains oversight of the provision of benefits to injured workers of self-insured employers and will make the determination whether to allow or deny a claim. Self-insurers are authorized to manage aspects of their injured worker claims, including the payment of benefits directly to their injured workers and to medical providers. Self-insurers must pay medical charges and fees within 60 days of receipt of a proper billing or 60 days after the claim is allowed by final order or judgment. Interest at the rate of 1 percent per month will be imposed on self-insured employers who fail to make payment on proper fees and medical charges within the 60-day period.

**Summary of Bill (Recommended Substitute):** Failure of a self-insured employer to pay fees and medical charges within 60 days after the claims allowed by final order or judgment subjects the employer to a penalty not to exceed \$500. L&I must determine whether a violation has occurred when requested by an injured worker.

A self-insured employer must provide notice to an injured worker when paying temporary disability benefits of the specific purpose of the payment and the time period it covers. The insurer must provide an explanation when the benefit amount or time period covered changes. Failure of an insurer to provide the requisite information subjects the self-insurer to a penalty not to exceed \$500. L&I must determine whether a violation has occurred within 30 days of a request by an injured worker.

**EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Substitute):** The substitute combines the language in the original bill to clarify that any time a self-insurer issues a time-loss payment, notice of the purpose and time period is provided to the worker. The substitute also removes the requirement that L&I issue a determination within 30 days about whether a self-insured employer failed to pay allowed medical charges. Instead, L&I must issue a determination when requested by an injured worker.

**Appropriation:** None.

**Fiscal Note:** Available.

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

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

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill addresses two recommendations of the 2010 self-insured ombudsman report. There's a growing problem with third-party administrators failing to pay authorized medical bills for accepted medical conditions. Workers have been sent to collections by providers which has caused hardships to the injured workers. The bill also contains a transparency piece that gives injured workers notice of what is being paid. State fund workers get this information, so should self-insured workers. Many self-insurers provide this information, but some do not. Workers can't determine the purpose of the payment without the necessary information, and can't determine the accuracy of the payment.

CON: These issues do need to be addressed, but legislation is an unnecessary response to a small problem. There is only one third-party administrator that refuses to provide information, and there must be a better way to ensure compliance than passing legislation. Audits would be a more appropriate means. There can be legitimate cases where there is a delay in paying medical bills that is attributable to the worker rather than the employer. There is already an interest penalty on unpaid medical bills imposed on self-insured employers. This bill is an overreaction to a small number of violators.

**Persons Testifying:** PRO: Denise McKay, Self-Insured Ombudsman; Vickie Kennedy, L&I.

CON: Dave Kaplan, Washington Self-Insurers Association.