

SENATE BILL REPORT

SB 5582

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, February 21, 2011

Title: An act relating to administrative efficiencies for the workers' compensation program.

Brief Description: Addressing administrative efficiencies for the workers' compensation program.

Sponsors: Senators Conway and Kohl-Welles; by request of Department of Labor & Industries.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/01/11, 2/07/11, 2/21/11 [DPS].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5582 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry, Ranking Minority Member; King, Assistant Ranking Minority Member; Hewitt, Keiser and Kline.

Staff: Mac Nicholson (786-7445)

Background: The state Industrial Insurance Program provides medical and other benefits to workers who suffer a work-related injury or develop an occupational disease. The Industrial Insurance Program is administered by the Department of Labor and Industries (L&I). Qualified employers may self-insure for workers' compensation purposes. Self-insurers are authorized to manage aspects of their injured worker claims, though L&I retains oversight of the provision of benefits to injured workers.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): The billing and payment instructions and policies associated with a fee schedule are not considered an agency rule.

Industrial insurance notices and orders required to be mailed by L&I can be sent electronically if requested by the employer, worker, beneficiary, or other person affected,

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except for notices and orders communicating the closure of a claim. Correspondence sent electronically is considered received on the date sent by L&I. Orders and notices required to be served by registered or certified mail can be served by any method for which receipt can be confirmed or tracked.

Self-insured employers must issue affirmative orders allowing or re-opening claims within specified time periods, or deny claims or re-openings and forward the claim to L&I for review. Orders issued by self-insurers can only allow the claim, and must include a statement that the order will become final unless appealed or a request for reconsideration is filed within 60 days. Self-insurers are not required to allow claims for medical only treatment. Self-insured employers who do not issue timely orders are subject to penalties payable to the worker. Penalty amounts are established by L&I in rule.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Substitute as Passed Committee): The substitute eliminates the ability of self-insurers to issue wage orders and removes the requirement that self-insurers issue orders on medical-only claims. The substitute also requires notice regarding finality of orders to be included on self-insurer orders. The substitute also provides that orders communicating the closure of a claim cannot be sent electronically and that an electronic communication is considered received on the date it was sent.

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 Proposed Substitute as Heard in Committee:
PRO: The bill is intended to modernize the workers compensation system and put cost effective changes into place in response to L&I and customer needs. This will give L&I an option to send electronic mail instead of traditional paper mail. Self-insurers should make the order allowing the claim, which allows L&I to reallocate personnel.

OTHER: Self-insurers should get more flexibility, and the intent of the legislation is good; but there are some concerns that need to be worked out. Much of the bill is non-controversial, but some self-insurers have been unwilling to have accountability measures for their conduct. Employers engage in stalling and delaying without accountability; so it's concerning to allow them to administer claims without accountability. There is no obligation of good faith in the legislation, and an implicit ability to restrict what the claim is allowed for. Self-insured employers frequently are wrong about how they calculate wages; and if the order becomes final there is no protection for the worker.

Persons Testifying: PRO: Vickie Kennedy, L&I.

OTHER: Wayne Lieb, Washington State Association for Justice; Kathleen Collins, Washington Self-Insurers Association.