

SENATE BILL REPORT

SHB 1911

As Reported By Senate Committee On:
Labor, Commerce & Trade, February 22, 1996

Title: An act relating to expanding authority for retrospective rating plans.

Brief Description: Expanding authority for retrospective rating plans.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Lisk, Goldsmith, Hargrove and Cairnes).

Brief History:

Committee Activity: Labor, Commerce & Trade: 3/27/95 [DPA, DNPA]; 2/15/96, 2/22/96 [DPA].

SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

Majority Report: Do pass as amended.

Signed by Senators Pelz, Chair; A. Anderson, Deccio, Fraser, McDonald and Newhouse.

Staff: Jack Brummel (786-7428)

Background: The Department of Labor and Industries has adopted rules providing for retrospective adjustment of an employer's premium under a retrospective rating plan. The plan is also available to groups of employers that meet statutory requirements for group insurance. The plan is available on a voluntary basis for a one-year period, beginning in January, April, July, or October, and may be renewed at the end of that year. The plan must be consistent with recognized insurance principles and be administered under rules adopted by the department.

Summary of Amended Bill: The Department of Labor and Industries is directed to offer a retrospective rating plan to qualified employers and groups of employers. The plan is available on a voluntary basis for one coverage period and may be renewed at the end of the year.

Retrospective rating plan employers have authority to assist in the processing of claims, beginning January 1, 1997.

The department is to adopt rules which include authorization to schedule medical exams, using a rotating list of doctors, and authorization to initiate rehabilitation services and select department-approved providers. Up to \$12,000 may be approved by the department for vocational rehabilitation services if approved by the retro employer.

Retrospective rating plan employers may close industrial insurance claims if: the claim involves only medical treatment and/or the payment of time loss benefits for 30 days or less; the claim does not involve permanent disability; the department has not intervened on the

claim because of a dispute; and the injured worker has returned to work at the same or comparable job with the retrospective rating plan employer or group. No later than at the time of closure, the retrospective rating plan employer or group must notify a worker of his or her rights under the industrial insurance law.

If a dispute arises from the handling of a claim by the retrospective rating plan employer or group, the worker or employer may request the department to intervene and assume responsibility for the claim. Department orders in response to worker protest of a retro employer claims action must be issued within 30 days.

Standard charges incurred by the employer or group in exercising the authority granted by the retrospective rating plan, other than management costs, are charged against the claims. A retrospective rating plan employer or group may exceed the medical fee schedule and other fee schedules, but the employer or group must pay the difference.

25 percent of any retro refund must be returned to workers.

Retro employers have a duty of good faith and fair dealing towards their employees. Retro employers will be ineligible to participate in the program for five years if they inhibit reporting of accidents or claim filing. A retro employer's failure to be timely in benefit payments will result in an additional obligation to the injured worker of \$500 or 25 percent of the amount due.

The department must conduct a study of the program authorized in the act, with a report to the Legislature by December 1, 1998. If the results of the study demonstrate that retrospective rating plan employers and groups are not achieving better overall worker outcomes than comparable state fund employers, then the act terminates on July 1, 1999.

Amended Bill Compared to Substitute Bill: The short date for the program was moved back one year. A provision for a rotating list of doctors was added. Higher vocational rehabilitation expenditures were authorized. The provision that claims with time loss benefits beyond 30 days must be closed by the department was added. Also added were provisions related to good faith, penalties, and the employees receipt of 25 percent of any retro refunds.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill has built-in safeguards for employees. The retro program reduces workers' comp costs to employers by 20 percent. Additional costs associated with administrative delays by the department can be saved through the provisions of the bill which allow retro rated employers to manage claims. Employees would get faster service if retro-rated employers could manage claim.

Testimony Against: Retro employers want the same powers that self-insured employers have, but employees of self-insured companies don't pay medical aid premiums. Employees

of retrospective rated employers paid \$82.5 million in medical aid premiums last year. The bill needs more safeguards.

The bill is not directed to reducing injuries but just managing claims. Claims management involves adversarial relations which the bill doesn't address.

Testified: PRO: Rep. Lisk, prime sponsor; Jan Gee, Assn. of WA Retro Employers; Vicki Mast, WR Gibbons; Anne Gabrielson, WA Assn. of Homes for the Aging; Larry Jergins, L.C. Jergins Painting Co.; Gary Writer, Farm Bureau; Clif Finch, AWB; Steve Leahy, Greater Seattle Chamber of Commerce; Dave Seago, C3HRM; David D'Hondt, Asher Construction; Scott Esqueda, Todd Scharff, United Grocers; Thomas Horey, Plaid Pantry; CON: Robby Stern, Jeff Johnson, WA State Labor Council; Alan Moore, WCIW; Dan Sexton, State Assn. of Plumbers and Pipefitters; Bill Hochberg, WA State Trial Lawyers Assn.