

2 SB 5882 - S AMD 073

3 By Senators Winsley and Rasmussen

4 ADOPTED 03/12/01

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to
8 expedite the minimization of the risk of employees incurring
9 musculoskeletal disorders. The legislature recognizes that prior to
10 the adoption of the state's ergonomics rule, musculoskeletal disorder
11 injuries were reduced more than twenty-eight percent over a seven-year
12 period through voluntary efforts by employers and employees, and that
13 more research, information, and education on reducing musculoskeletal
14 disorders will greatly facilitate further reduction of these disorders.
15 The legislature recognizes that both employers and employees have a
16 number of existing incentives, both monetary and nonmonetary, to reduce
17 musculoskeletal disorders, but that most employers and employees are
18 not informed about what practices, products, and equipment are known to
19 reduce these disorders. The legislature recognizes the wide diversity
20 in cost estimates to comply with the state's rules, and the need to
21 carefully analyze the costs to comply with the rules by employers and
22 government agencies and the need to determine how to maximize reduction
23 of musculoskeletal disorders in the most cost-effective way. The
24 legislature further recognizes that there are many questions and
25 concerns about implementation of the state's rules. Therefore, the
26 legislature wishes to accelerate ergonomics awareness education. The
27 legislature also wants to ensure that pilot demonstration projects for
28 various industries, as contained in the department's implementation
29 plan for the agency's rules to reduce musculoskeletal disorder,
30 are carried out for key industries; that alternative musculoskeletal
31 disorder reduction techniques can be tried; that certain information is
32 obtained from all projects; and that the projects are initiated and
33 completed so information to reduce injuries can be distributed as soon
34 as possible, and the legislature and all interested parties can review
35 the results of the projects. The legislature also wishes to have the
36 joint legislative audit and review committee review the rules adopted

1 by the department of labor and industries, and the results of the pilot
2 demonstration projects, and make recommendations regarding the rules,
3 alternatives to the rules, and the need for implementation.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.17 RCW
5 to read as follows:

6 (1) The legislature directs the department to accelerate the
7 dissemination of ergonomics awareness education to employers and
8 employees to the maximum extent possible within existing resources.
9 The department shall make any necessary adjustments to the use of their
10 resources to produce musculoskeletal disorder prevention and awareness
11 education for employers and employees that is written, on-line, or
12 available through other media, as determined to be cost-effective by
13 the department, at the earliest date possible for use on a voluntary
14 basis. The department shall obtain input from employers and employees
15 from large and small businesses and units of government in preparing
16 these materials.

17 (2) The department shall carry out comprehensive pilot
18 demonstration projects on the technological and economic feasibility of
19 implementing the rules adopted on May 26, 2000, by the director of the
20 department of labor and industries and codified as WAC 296-62-05101
21 through 296-62-05176. The department shall, at the earliest date
22 possible and within existing resources, establish pilot demonstration
23 projects for industries first required to come into compliance with the
24 rule. Demonstration projects for each of these industries shall
25 include at least five employers with twenty-five or fewer employees,
26 five employers with twenty-five to fifty employees, and five employers
27 with over fifty employees, who volunteer to participate and who shall
28 not be subject to any enforcement action as a result of the project.
29 The department may establish more than one pilot demonstration project
30 for each industry as it deems necessary. The pilot demonstration
31 projects for these industries shall be completed, to the maximum extent
32 possible, by July 1, 2003. The goal of each pilot demonstration
33 project shall be:

34 (a) To test the implementation of the rule as adopted and based on
35 a set of draft practices agreed to by the participants with the advice
36 of the department, and to report at a minimum on the following:

1 (i) The cost of implementation including but not limited to
2 monetary expenditures, both direct and indirect, and time for
3 participating employers;

4 (ii) The ease of implementation and any implementation problems
5 participants identify;

6 (iii) Any recommendations participants have to modify the rule;

7 (iv) The cost to the department to provide necessary technical
8 assistance to employers to assist participants to implement the rule;
9 and

10 (v) The effectiveness of the rule in reducing musculoskeletal
11 disorders; and

12 (b) The results of allowing some participants, if they choose, to
13 test alternatives to the rule in an effort to reduce musculoskeletal
14 disorders and to provide the following information on each alternative
15 tried:

16 (i) A clear description of the alternative;

17 (ii) The cost of implementation including but not limited to
18 monetary expenditures, both direct and indirect, and time for
19 participating employers;

20 (iii) The ease of implementation and any implementation problems
21 participants identify;

22 (iv) Any recommendations participants have to modify the
23 alternative;

24 (v) The cost to the department to provide necessary technical
25 assistance to employers to assist them in implementing the alternative;
26 and

27 (vi) The effectiveness of the alternative in reducing
28 musculoskeletal disorders.

29 (3) To the extent possible within existing resources, the
30 department of labor and industries shall provide periodic information
31 to the industries identified in subsection (2) of this section and any
32 other industries deemed appropriate by the department on practices,
33 equipment, and products that have been identified by the department as
34 being effective in reducing musculoskeletal disorders.

35 (4) This section expires June 30, 2004.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 44.28 RCW
37 to read as follows:

1 The joint legislative audit and review committee shall conduct a
2 review of the rule as adopted and the results of all demonstration
3 projects arranged by the department to assess and make recommendations,
4 including but not limited to:

5 (1) Review of the literature regarding the scientific justification
6 for the rules, the expectation that the rules will reduce
7 musculoskeletal disorders, and the degree to which the rules would
8 reduce injury;

9 (2) The accuracy of the cost-benefit analyses prepared for the
10 department rule;

11 (3) The ease of understanding and complying with the rule,
12 identification of ambiguities and difficulties encountered during the
13 demonstration projects to implement the rule, and recommendations to
14 maximize understanding and minimize ambiguities and confusion for
15 employers in complying with the rule;

16 (4) Ease of implementation of the rule based on the results of the
17 pilot projects and recommendations on how to facilitate easier
18 implementation and reduce costs while maintaining or increasing the
19 reduction of musculoskeletal disorders;

20 (5) Results of any demonstration projects using alternative methods
21 to reduce musculoskeletal disorders and the cost-effectiveness of each
22 of the alternatives;

23 (6) Expected musculoskeletal disorder reductions as a result of the
24 rule and any alternatives to the rule that were the subject of a
25 demonstration project;

26 (7) Costs to comply with the rule and any alternative methods to
27 reduce musculoskeletal disorders, based on the result of the
28 demonstration projects; and

29 (8) Any other analysis, finding, or recommendation the committee
30 deems useful in assessing effectiveness in reducing musculoskeletal
31 disorders.

32 The committee shall report its finding by January 1st of each
33 calendar year and shall issue a complete report by January 1, 2004.

34 Funding for this program will be taken from the reserves of the
35 medical aid fund that are in excess of actuarial needs.

36 This section expires June 30, 2004.

37 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.17 RCW
38 to read as follows:

1 The department may adopt rules regarding the prevention of
2 musculoskeletal disorders, also known as ergonomics rules, however,
3 such rules shall provide for implementation no earlier than:

4 (1) July 1, 2005, for all employers in Standard Industrial
5 Classification codes 078, 152, 174, 175, 176, 177, 242, 421, 451, 541,
6 805, and 836 who employ fifty or more annual full-time equivalents in
7 Washington state, and for the Washington state department of labor and
8 industries;

9 (2) July 1, 2006, for the remaining employers in Standard
10 Industrial Classification codes 078, 152, 174, 175, 176, 177, 242, 421,
11 451, 541, 805, and 836, and all other employers who employ fifty or
12 more annual full-time equivalents in Washington state;

13 (3) July 1, 2007, for all other employers employing eleven to
14 forty-nine annual full-time equivalents in Washington state; and

15 (4) July 1, 2008, for all other employers employing ten or fewer
16 annual full-time equivalents in Washington state.

17 NEW SECTION. **Sec. 5.** (1) The director, in consultation with the
18 WISHA advisory committee, shall establish a program to provide safety
19 and health impact grants to prevent injuries and illnesses, save lives,
20 and educate Washington employees and employers about work place hazards
21 and safe work place practices. The intent of sections 5 through 11 of
22 this act is to benefit, in the broadest sense possible, Washington
23 workers and employers, especially those who are in small business and
24 may lack the injury and illness prevention resources that larger
25 companies may possess. The department may use appropriated industrial
26 insurance funds to accomplish the purpose of sections 5 through 11 of
27 this act. Funding for this program will be taken from the reserves of
28 the medical aid fund that are in excess of actuarial needs.

29 (2) Using a competitive application process, the department shall
30 award up to five million dollars per year in safety and health impact
31 grants to trade associations, business associations, employers,
32 employee organizations, labor unions, and groups of employees. The
33 grants may include: (a) Education and training grants to implement
34 safety and health and to provide practical information, curricula,
35 materials, and methods intended for use by employers and employees in
36 reducing work place hazards; (b) technical innovation grants to develop
37 engineering and other technical solutions to injury and illness
38 problems; or (c) best practice grants for the application of hazard

1 control. The department shall attempt to ensure that best practice
2 grants, in particular, are adequately represented in the final awarding
3 of grants. In addition, the department shall make reasonable efforts
4 to ensure that not less than twenty percent of the grant funds are used
5 to assist small employers and employees in small businesses to improve
6 safety and health in small firms.

7 (3) Applicants for grants may form partnerships with educational
8 institutions and other organizations. Applicants for grants may form
9 partnerships with self-insured employers if the product of the grant
10 will significantly benefit employees and employers who belong to the
11 state industrial insurance fund.

12 (4) Any materials, designs, or equipment developed under these
13 grants will be in the public domain and shall not be copyrighted or
14 patented. Any materials or designs developed under these grants shall
15 be provided to the department at no charge as a condition of grant
16 receipt.

17 (5) Grants shall not be used to support or develop specific
18 legislative or regulatory initiatives.

19 (6) The department shall not use information contained in a grant
20 application for inspection activity or to establish a recognized hazard
21 for enforcement or citation purposes. The department shall not use the
22 results of a grant to establish that the grantee is subject to citation
23 or penalty for violation of a safety and health rule.

24 (7) All grants shall contain an accountability component that shall
25 evaluate the impact on work place safety with results that are reported
26 back to the safety and health impact grant review committee. The
27 department shall cooperate in providing available data required to
28 assist the grant recipients in measuring the impact.

29 (8) In order to encourage the broadest level of participation, no
30 grant application shall be approved that proposes work that cannot be
31 completed during the current application year or biennium. Applicants
32 that seek additional funding in subsequent years will be eligible to
33 submit new applications only if they have successfully completed the
34 work for which they were previously funded, and these new applications
35 will compete with all other applicants.

36 NEW SECTION. **Sec. 6.** (1) The director shall appoint a safety and
37 health impact grant review committee that will be a subcommittee of the
38 WISHA advisory committee. The review committee is composed of nine

1 members: Four members representing employees, each appointed from a
2 list of at least three names per position, submitted by recognized
3 statewide organizations of employees; four members representing
4 employers, each appointed from a list of at least three names per
5 position, submitted by recognized statewide organizations of employers;
6 and one ex officio member, without a vote, who shall represent the
7 department. The committee chair shall be chosen by the review
8 committee and shall alternate between business and labor. The
9 committee members shall serve three-year renewable terms.

10 (2) Business and labor members of the safety and health impact
11 grant review committee are entitled to expenses as provided under RCW
12 43.03.050 and 43.03.060.

13 (3) The safety and health impact grant review committee shall:

14 (a) Prepare requests for proposals which shall include specific
15 criteria and the weight to be given to each of the criteria in awarding
16 grants;

17 (b) Receive, review, and process grant applications;

18 (c) Identify, by two-thirds majority vote, grant applications that
19 merit funding and forward those applications to the director;

20 (d) Identify, by two-thirds majority vote, funded grants that meet
21 criteria for suspension or revocation and forward those grants to the
22 director; and

23 (e) Provide written notification to those grant applicants that do
24 not merit funding explaining the reasons for denial.

25 NEW SECTION. **Sec. 7.** (1) The safety and health impact grant
26 review committee, in cooperation with the director, shall develop grant
27 application procedures and approval criteria. The director shall
28 ensure the proper administrative support to successfully monitor grant
29 recipients for compliance with grant criteria and all other procedures
30 under the grant program. The director in cooperation with the safety
31 and health impact grant review committee shall implement procedures and
32 criteria for grant approval, including procedures for suspension or
33 revocation of grants to recipients failing to comply with grant
34 criteria established under the authority of this section.

35 (2) The director shall approve only those grant applications and
36 their recommended acceptance conditions as forwarded by the safety and
37 health impact grant review committee, unless the director has a
38 compelling and substantive reason to reject an application, whereupon

1 the director shall provide written explanation for the denial to the
2 review committee. The safety and health impact grant review committee
3 shall review any grant applications rejected by the director and may
4 advise the director to reconsider. The director shall consider the
5 advice, if given, and shall approve the grant application with any
6 conditions presented by the safety and health impact grant review
7 committee. The director may reject that advice only for a compelling
8 and substantive reason. If the director rejects that advice, the
9 safety and health impact grant review committee may refer the
10 application to the WISHA advisory committee. The WISHA advisory
11 committee shall review the application and may advise the director to
12 reconsider.

13 (3) The director may revoke or suspend an issued grant if advised
14 by the safety and health impact grant review committee that the
15 recipient is not in compliance with grant criteria or procedures. The
16 director may suspend an issued grant without the advice of the safety
17 and health impact grant review committee only for a compelling and
18 substantive reason and the suspension recommendation shall be presented
19 to the safety and health impact grant review committee for its
20 consideration.

21 NEW SECTION. **Sec. 8.** For purposes of the 2001-2003 time frame,
22 the director shall approve one grant application of up to one million
23 dollars per year, and its recommended acceptance conditions as
24 forwarded by the safety and health impact grant review committee, that
25 is selected by the employee representatives of the review committee,
26 unless the director has a compelling and substantive reason to reject
27 the application, whereupon the director shall provide written
28 explanation for the denial to the review committee. This grant shall
29 be above and beyond the funding authorized in section 5(2) of this act.
30 The entire review committee, by the normal two-thirds vote, shall
31 forward such a grant proposal if the grant meets all other criteria and
32 accountability requirements. The specified time frame in this section
33 shall be determinative for meeting the grant duration requirements in
34 section 5(8) of this act.

35 NEW SECTION. **Sec. 9.** The department and the safety and health
36 impact grant review committee will present an annual review regarding
37 the activities of the safety and health impact grant program to the

1 WISHA advisory committee, the workers' compensation advisory committee,
2 and make it available to the appropriate standing committees of the
3 legislature. Based on a recommendation of the WISHA advisory
4 committee, the workers' compensation advisory committee shall make a
5 biennial recommendation to the director concerning an appropriate
6 budget for the program and the maximum amount of individual grant
7 awards.

8 NEW SECTION. **Sec. 10.** The director and representatives from the
9 WISHA advisory committee shall perform a comprehensive review of the
10 grant program which shall include, but not be limited to, reported
11 outcomes, injury reduction, and safety awareness and shall issue a
12 report to the legislature by December 31, 2004.

13 NEW SECTION. **Sec. 11.** The following acts or parts of acts, as now
14 existing or hereafter amended, are each repealed, effective July 1,
15 2005:

- 16 (1) Section 5 of this act;
- 17 (2) Section 6 of this act;
- 18 (3) Section 7 of this act;
- 19 (4) Section 8 of this act;
- 20 (5) Section 9 of this act; and
- 21 (6) Section 10 of this act.

22 NEW SECTION. **Sec. 12.** Sections 5 through 11 of this act are each
23 added to chapter 49.17 RCW.

24 NEW SECTION. **Sec. 13.** Sections 1 through 4 of this act are
25 necessary for the immediate preservation of the public peace, health,
26 or safety, or support of the state government and its existing public
27 institutions, and take effect immediately."

28 **SB 5882** - S AMD 073
29 By Senators Winsley and Rasmussen

30 ADOPTED 03/12/01

31 On page 1, line 1 of the title, after "Relating to" strike the
32 remainder of the title and insert "occupational safety and health;
33 adding new sections to chapter 49.17 RCW; adding a new section to

- 1 chapter 44.28 RCW; creating a new section; providing expiration dates;
- 2 and declaring an emergency."

EFFECT: Delays each stage of implementation of state ergonomic rules; requires extensive study of ergonomic rule effectiveness by JLARC; requires outreach and pilot projects for various sizes of businesses; and establishes a program of safety and health impact grants.

--- END ---