SENATE BILL REPORT
SHB 1196

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, March 21, 2005

Title: An act relating to the United States longshore and harbor workers' compensation account in the Washington insurance guaranty association.

Brief Description: Including the longshore and harbor workers' compensation account within the Washington insurance guaranty association.

Sponsors: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kirby, Roach, Simpson and Chase; by request of Insurance Commissioner).

Brief History: Passed House: 2/25/05, 93-2.
Committee Activity: Labor, Commerce, Research & Development: 3/21/05 [DP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: Do pass.
Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Parlette, Ranking Minority Member; Brown, Hewitt, Honeyford, Keiser and Prentice.

Staff: Alison Mendiola (786-7483)

Background: Insurance guaranty associations have been created in Washington to cover life and disability insurance policies and some casualty insurance policies. Their purpose is to provide a mechanism for payment of covered claims when an insurer becomes insolvent and to assess the cost of such protection among insurers. The Washington Insurance Guaranty Association (WIGA), a statutorily created nonprofit unincorporated legal entity, operates two accounts: (1) the automobile insurance account; and (2) an account for all other direct insurance, except life, title, surety, disability, credit, mortgage guaranty, workers' compensation, and ocean marine.

Under federal law, businesses whose employees work in maritime employment on or near navigable waters of the United States are required to purchase longshore and harbor workers' compensation act insurance. This insurance is available through private insurers or through an assigned risk plan created in Washington law. Insurers who provide longshore and harbor workers compensation act insurance (USL&H) policies are not covered by a Washington insurance guaranty association. Consequently, if an insurer becomes insolvent, there is no mechanism for payment of covered claims by a pool to which all insurers in this type of plan contribute. Employers who purchase longshore and harbor workers' compensation insurance from private insurers remain responsible for an employee's job-related injury or death if the insurer becomes insolvent.

The U.S. Department of Labor (US DOL) is promulgating rules which will require all insurers writing USL&H in states without guaranty fund coverage to post full security for their USL&H business in that state.

In 2004, ESB 6158 directed the Insurance Commissioner to create a committee to study the best method by which to provide insurance guaranty protection for USL&H Workers' Compensation Act insurance policyholders and employees, with a report due to the Legislature by December 1, 2004.

Summary of Bill: A new account in the Washington Insurance Guarantee Association (WIGA) is created to cover USL&H insurance.

Key elements of this account. An "unpaid claim" is one in which benefits are due and the insurer is insolvent and: (1) the worksite from which the injury occurred is within this state or on the navigable waters within or immediately offshore of this state; or (2) if the worksite from which the injury occurred is outside this state, the injured worker is a permanent resident of this state, the injured worker is temporarily working at the worksite from which the injury occurred, and the injured worker is not covered by a policy of the longshore and harbor workers' compensation insurance issued in another state.

In the event of insolvency of a member insurer who writes USL&H insurance, at least one member of the WIGA Board of Directors must represent the interests of this class.

Loan amounts sought by the WIGA related to the USL&H account may be sought from the USL&H assigned risk plan or other parties.

The collection of a pre-insolvency assessment continues post-insolvency:

1) beginning July 1, 2005, USL&H insurers are assessed an amount determined by the board, but not to exceed 3 percent of net direct written premiums;
2) following an insolvency, USL&H insurers are assessed an amount determined by the board, but not to exceed 3 percent of net direct written premiums; and
3) insurer assessment prior to an insolvency continue until a net fund balance is established that equals 4 percent of the aggregate net direct premium for the calendar year preceding the assessment on all insurers authorized to write such policies.

If any insurer fails to provide its net direct written premium data as requested by the association, the association may substitute that insurer's direct written premiums for worker's compensation reported in its annual statement to the state.

The WIGA must not access any funds from the automobile or insurance account or the account of all other insurance to cover the cost of claims or administration arising under this account.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.
Testimony For: This bill, which is the same as ESB 5194, is important and greatly needed.

Testimony Against: None.

Who Testified: PRO: Gordon Baxter, ILWU; Dale Newell, IBA West; Randy Ray, Todd Shipyards.