

SENATE BILL REPORT

SB 6034

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, March 1, 2005

Title: An act relating to industrial insurance premium rates.

Brief Description: Establishing criteria for industrial insurance premium rates.

Sponsors: Senators Brown and Kohl-Welles.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 3/1/05 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6034 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

Minority Report: Do not pass.

Signed by Senator Honeyford.

Minority Report: That it be referred without recommendation.

Signed by Senator Parlette, Ranking Minority Member.

Staff: Jennifer Strus (786-7316)

Background: The Department of Labor and Industries (L&I) administers the Washington industrial insurance system. L&I's responsibilities include operating the state fund from which employers who are not self-insured purchase industrial insurance coverage.

The industrial insurance trust fund administered by L&I includes three basic funds: the accident fund, the medical aid fund, and the supplemental pension fund. The accident fund is used to pay time-loss benefits, permanent partial disability awards, and pensions. The medical aid fund is used to pay medical and vocational rehabilitation benefits. The supplemental pension fund is used to pay cost-of-living adjustments to workers receiving time-loss or pension payments.

All state fund employers pay premiums to L&I for these three funds. These employers deduct one-half of the premium for the medical aid fund and the supplemental pension fund from their employees' wages. On average, the employees' share is approximately 20 percent of the total composite premium (the total premium for all three funds).

The industrial insurance trust fund includes a contingency reserve targeted, under L&I policy, at about 10 percent of the trust fund liabilities. The contingency reserve is the amount in the

medical aid and accident funds that exceeds the benefit and claims administration liabilities. These liabilities are an actuarial calculation of estimated future claims and administrative costs for injuries already incurred on a discounted basis.

L&I must classify industries according to hazard and set industrial insurance premium rates for each classification at the lowest level necessary to maintain actuarial solvency of the medical aid and the accident funds in accordance with recognized insurance principles. (Premium rates for the supplemental pension fund are set on a "current payment" basis because this fund does not accumulate reserves.)

The Workers' Compensation Advisory Committee (WCAC) is a statutory committee composed of 10 members appointed by the Director of L&I. The members include three members representing state fund employers, one member representing self-insured employers, three members representing employees of state fund employers, one member representing employees of self-insured employers, and two non-voting ex officio members representing L&I and the Board of Industrial Insurance Appeals. The L&I representative chairs the WCAC. The WCAC is charged with conducting a continuing study of any aspects of workers' compensation that it determines requires its consideration.

Summary of Substitute Bill: In addition to being the lowest necessary to maintain actuarial solvency of the workers' compensation funds, the workers' compensation premium rate must also be designed to reduce volatility in premiums by establishing rates based upon historical rates of investment return and other insurance principles.

In consultation with the WCAC, L&I must adopt rules regarding the asset level needed to maintain actuarial solvency of the accident and medical aid funds. In doing so, the WCAC and L&I must consider the asset level customarily used by private insurers offering workers' compensation insurance in other states as well as other states' workers' compensation funds.

When the asset level exceeds the amount required under the rules, L&I may temporarily reduce the rates but only if: (1) employers are notified of the fixed rate, the temporary rate, the period over which the temporary rate applies and the reason for adopting the reduced rate; and (2) the legislature is notified of the reduced rate at least 60 days before L&I reduces the rate.

L&I may not provide dividends, or other similar measures, that provide refunds, rebates, or account credits to employers or employees of the premiums paid or of surplus funds. Nothing in the act is to be construed to affect the retrospective rating program.

Substitute Bill Compared to Original Bill: The bill does not affect the retrospective rating program.

Appropriation: None.

Fiscal Note: Requested on February 28, 2005.

Committee/Commission/Task Force Created: No.

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

Testimony For: The Labor Council opposed the dividends that were distributed in 2002. They were concerned that taking money out of the reserves would have the impact of forcing

L&I to raise rates at a later date and that is exactly what happened. Dealing with excesses in reserves by lowering the premium rate temporarily is better than distributing dividends that L&I cannot later recoup.

Testimony Against: This bill will probably result in more volatility in rates than not doing anything. The way the bill is currently written if a business overpaid its workers' compensation premiums L&I would not be able to refund to the business the overpayment. The bill will hamstring L&I's ability to be flexible. The audit contained in SB 5614 should be conducted before this legislation dealing with premium rate volatility is considered. Rulemaking is not the venue for decisions of this import to be made.

Who Testified: PRO: Robby Stern, Washington State Labor Council.

CON: Gary Smith, Independent Business Association; Rick Slunaker, Associated General Contractors; Carolyn Logue, National Federation of Independent Businesses; Amber Carter, Association of Washington Business. OTHER: Vickie Kennedy, Department of Labor & Industries.