FINAL BILL REPORT
SB 5084

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Synopsis as Enacted

Brief Description: Creating a separate fund for the purposes of self-insured pensions and assessments.

Sponsors: Senators Braun, Keiser and Mullet; by request of Department of Labor & Industries.

Senate Committee on Labor & Commerce
Senate Committee on Ways & Means
House Committee on Labor & Workplace Standards
House Committee on Appropriations

Background: Workers' Compensation—General. Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to workers' compensation benefits, which may include medical, temporary time-loss, vocational rehabilitation benefits, and permanent disability benefits (pensions). The Department of Labor and Industries (L&I) administers the state's workers' compensation system.

State Fund Employers. In Washington, all employers must provide workers' compensation coverage for their employees. Most employers pay premiums to L&I for this insurance. Those are known as state fund employers because they insure through the state fund.

Self-Insured Employers. An employer may qualify as a self-insurer by establishing to L&I's satisfaction that the employer has sufficient financial ability to make certain the prompt payment of all workers' compensation benefits and all assessments which may become due from the employer. Those employers provide workers' compensation benefits directly to their own employees when a worker is injured in the course of employment. Self-insured employers do not pay premiums, but are assessed annually by L&I for their share of certain costs. The director imposes and collects assessments each fiscal year on all self-insurers in the amount of the estimated costs of administering their portion of the workers' compensation program, including assessments for the ombuds' office.

Pensions. For every case resulting in death or permanent total disability pension, a self-

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insurer must pay into the reserve fund a sum of money for that case equal to the estimated present cash value of the monthly payments calculated upon the basis of an annuity. The annuity values are based upon rates of mortality, disability, remarriage, and interest and the experience of the reserve fund. The deposits are made into the reserve fund and each self-insurer has an account within the reserve fund. Each account is credited with its proportionate share of interest on the fund.

As an alternative to paying the present cash value, a self-insured employer may file a bond with L&I along with a deposit payment equal to the first three months' payments. L&I administers payments of the pensions. The self-insured employer must reimburse L&I for these payments. There are penalties if the reimbursements are late. The deposit and penalties are placed in the reserve fund.

<u>Second Injury.</u> Whenever a worker has a bodily disability from any previous injury or disease, whether known or unknown to the employer, and suffers a further disability from injury or occupational disease in employment covered under workers' compensation and becomes totally and permanently disabled from the combined effects, or dies when death was substantially accelerated by the combined effects, then:

- the experience record of a state fund employer at the time of the further injury or disease must be charged; and
- the self-insured employer must pay directly into the reserve fund only the accident cost which would have resulted solely from the further injury or disease, had there been no preexisting disability.

The accident cost must be based upon an evaluation of the disability by medical experts. The difference between the charge assessed to the employer at the time of the further injury or disease and the total cost of the pension reserve is assessed against the second injury fund.

<u>Second Injury Fund.</u> There is a second injury fund, administered by L&I, at the State Treasurer's Office. The purpose of the fund is to defray employer charges and support return-to-work outcomes. Payments are made to the fund from the accident and experience-rated assessments on self-insured employers. There is a calculation for these assessments. Current law does not address interest earnings on the second injury fund so the interest is deposited into the general fund.

<u>Transfers.</u> L&I may make periodic temporary interfund transfers between the reserve and supplemental pension funds to provide for payments from the supplemental pension fund.

Summary: <u>Self-Insurance Reserve Fund.</u> A self-insurance reserve fund is created in the State Treasurer's Office. Payments from self-insured employers related to pensions and from the overpayments reimbursement fund are paid into the self-insurance reserve fund, rather than the reserve fund. Interest or other earnings on the self-insurance reserve fund become part of the fund. If the State Investment Board (Board) determines there are funds in excess of the amounts needed to meet the self-insurance reserve fund's current expenditures, the Board may invest the excess funds.

The ability to make transfers between funds, includes the self-insurance reserve fund. L&I must notify the State Treasurer of transfers from the self-insurance reserve fund. L&I must provide for audits of the self-insurance reserve fund and prepare financial statements for the fund and the state fund pension reserve.

The experience of the self-insurance reserve fund is one of the factors to determine the annuity value for payment of pensions.

Second Injury Fund. The second injury fund will receive its proportionate share of earnings in the fund held by the State Treasurer's Office.

There is an emergency clause for the provision related to the second injury funds. The other provisions are effective on July 1, 2025.

Votes on Final Passage:

Senate	47	2
House	98	0

Effective: July 1, 2025
July 1, 2023 (Section 2)
July 1, 2024 (Section 3)