

2 **SHB 2720** - CONF REPT
3 By Conference Committee

4 ADOPTED 3/12/92

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

7 "NEW SECTION. **Sec. 1.** The legislature finds and declares that
8 the continued existence of a strong and healthy maritime industry in
9 this state is threatened by the unavailability and excessive cost of
10 workers' compensation coverage required by the United States
11 longshoreman's and harbor worker's compensation act. The legislature,
12 therefore, acting under its authority to protect industry and
13 employment in this state hereby establishes a commission to devise and
14 implement both a near and long-term solution to this problem, for the
15 purpose of maintaining employment for Washington workers and a vigorous
16 maritime industry."

17 "NEW SECTION. **Sec. 2.** A new section is added to chapter 48.22 RCW
18 to read as follows:

19 (1) Before July 1, 1992, the commissioner shall adopt rules
20 establishing a reasonable plan to insure that workers' compensation
21 coverage as required by the United States longshoreman's and harbor
22 worker's compensation act, 33 U.S.C. Secs. 901 through 950, and
23 maritime employer's liability coverage incidental to the workers'
24 compensation coverage is available to those unable to purchase it
25 through the normal insurance market. This plan shall require the
26 participation of all authorized insurers writing primary and excess
27 workers' compensation insurance or reinsurance and the Washington state

1 industrial insurance fund as defined in RCW 51.08.175 which is
2 authorized to participate in the plan and to make payments in support
3 of the plan in accordance with this section. Any underwriting losses
4 incurred by the plan shall be shared by plan participants in accordance
5 with the following ratios: The state industrial insurance fund, fifty
6 percent; authorized insurers writing United States longshoreman's and
7 harbor workers' compensation insurance, forty-eight percent; and
8 authorized insurers writing excess workers' compensation insurance or
9 reinsurance, two percent.

10 (2) The Washington state industrial insurance fund shall obtain or
11 provide coverage for the plan created under subsection (1) of this
12 section on an excess of loss basis that would cover plan losses
13 exceeding the net earned and retained premiums written including
14 investment income of the plan as negotiated between the state fund and
15 the plan. If such coverage is not provided by July 1, 1992, or if the
16 commissioner determines that the premium to be charged for such
17 coverage would result in unaffordable rates for coverage provided by
18 the plan, the industrial insurance fund shall be relieved of
19 responsibility for obtaining or providing excess of loss coverage. In
20 considering whether excess of loss coverage premiums would result in
21 unaffordable rates for workers' compensation coverage provided by the
22 plan, the commissioner shall compare the resulting plan rates to those
23 provided under any similar pool or plan of other states in existence
24 prior to July 1, 1992.

25 (3) An applicant for plan insurance, a person insured under the
26 plan, or an insurer, affected by a ruling or decision of the manager or
27 committee designated to operate the plan may appeal to the commissioner
28 for resolution of a dispute. In adopting rules under this section, the
29 commissioner shall require that the plan use generally accepted
30 actuarial principles for rate making."

1 "NEW SECTION. **Sec. 3.** A new section is added to chapter 48.22 RCW
2 to read as follows:

3 Before April 15, 1992, the commissioner shall appoint a committee
4 to provide assistance in drafting the rules required by section 2 of
5 this act. After July 1, 1992, the committee shall assist the
6 commissioner in overseeing the operation of the plan. The committee
7 shall consist of at least eight members. The commissioner and the
8 director of the department of labor and industries shall be members.
9 The remaining members shall be selected to insure equal representation
10 of authorized insurers writing primary or excess workers' compensation
11 insurance, insurance producers, organized labor, and maritime
12 employers."

13 "NEW SECTION. **Sec. 4.** A new section is added to chapter 48.22 RCW
14 to read as follows:

15 The committee appointed pursuant to section 3 of this act shall
16 submit a report to the legislature no later than January 1, 1993, that
17 examines all aspects of the United States longshoreman's and harbor
18 worker's act, 22 U.S.C. Secs. 901 through 950, coverage, and incidental
19 maritime liability coverage, as it applies to Washington workers and
20 employers. This study shall include but not be limited to the ability
21 of private insurers to provide affordable coverage to eligible
22 employers; whether the Washington state industrial insurance fund
23 should participate in the plan adopted pursuant to section 2 of this
24 act; whether there are methods that will satisfy the intent of chapter
25 ..., Laws of 1992 (this act) that will not involve the Washington state
26 industrial insurance fund; and the feasibility of requiring that this
27 coverage be made directly available through the Washington state
28 industrial insurance fund."

