

SENATE BILL REPORT

ESB 6322

AS PASSED SENATE, FEBRUARY 18, 1992

Brief Description: Providing longshoreman's insurance.

SPONSORS: Senators Vognild, Owen and Moore

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended.

Signed by Senators Matson, Chairman; Anderson, Vice Chairman; Bluechel, McDonald, McMullen, Moore, Murray, and Skratek.

Staff: Dave Cheal (786-7576)

Hearing Dates: February 5, 1992; February 7, 1992

BACKGROUND:

While workers' compensation insurance is the exclusive province of the state fund administered by the Department of Labor and Industries, the state does not provide coverage under the federal Longshoremen's and Harbor Workers' Compensation Act, nor maritime employers liability coverage under the Jones Act. Coverage for employers subject to those laws purchase workers' compensation coverage from the private market. Those employers who cannot obtain insurance from private carriers have purchased coverage from an assigned risk pool based in Portland, Oregon. In October of 1991, the underwriter of that pool, the National Council on Compensation Insurance, indicated that it will no longer approve the activities of that pool in Washington. They have set June 30, 1992 as the end of coverage for Washington employers from that pool. Employers who have obtained insurance from that source in the past may have trouble getting coverage from the few private carriers who write that insurance in Washington.

Currently, workers' compensation insurance is excluded from the provisions of the Washington Insurance Guarantee Association Act. This act is designed to provide some protection to victims of insurance carrier insolvency.

SUMMARY:

The intent is stated to be preservation of jobs and maritime businesses.

The exclusion of workers' compensation insurance from the provisions of the Washington Insurance Guarantee Association Act is limited to that industrial insurance issued by the state fund. Other workers' compensation insurance, such as that issued by private carriers for Longshoremen and Harbor

Workers' Act coverage is brought within the provisions of the guarantee act for orders of liquidation issued on or after July 1, 1992.

The Insurance Commissioner is given the authority to develop a plan to insure employers' obligations under the Longshoremen and Harbor Workers' Act and maritime employers' liability coverage when those employers are unable to obtain coverage in the private market. The plan requires the participation of all insurers who are authorized to write primary and excess workers' compensation insurance or reinsurance, specifically including the Washington State fund. Participation must be in amounts proportional to the premiums written by each of these entities.

The commissioner is required to appoint an advisory committee by April 15, 1992, consisting of the commissioner, the Director of the Department of Labor and Industries, and representatives of insurers writing primary or excess workers' compensation insurance, organized labor, and maritime employers. The advisory committee is given the added task of proposing long-term solutions to the longshoremen and harbor workers' insurance availability-affordability problem.

The insurance plan to be established by the Insurance Commissioner terminates on July 1, 1993.

Appropriation: none

Revenue: none

Fiscal Note: available

Effective Date: The bill contains an emergency clause and takes effect immediately.

TESTIMONY FOR:

Through no fault of their own, many small maritime employers will soon be unable to obtain federally mandated workers' compensation insurance. The only immediate solution is to involve the Washington State industrial insurance fund.

TESTIMONY AGAINST:

The rest of the employers in the state should not have to underwrite this risk, through the participation of the Washington State fund, without a demonstration that the private sector can't supply this insurance.

TESTIFIED: Ginny Clark, Clark Maritime (pro); Lincoln Ferris (pro); Steve Wehrly, Insurance Brokers (pro); Ruth A. Nelson, United Marine Shipbuilding (pro); Jesse L. Gary, Jr., Western Association of Insurance Brokers (pro); Larry Kenney, State Labor Council; Doug Connell, Department of Labor and Industries (con); Clayton Jones, Red Shield Insurance Company (con); Robert Dilger, Washington State Building Trades (pro);

Clif Finch, AWB; Wayne A. Russell, Marine Electricians Union
#46 (pro)