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**SUBSTITUTE HOUSE BILL 1543**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Zellinsky, Mielke, Tate, Dellwo, Scott, Sommers, G. Cole, R. Johnson, Dyer, R. Meyers, Jones and Basich)

Read first time 03/03/93.

1 AN ACT Relating to longshore and harbor workers' compensation act  
2 insurance; amending RCW 48.22.070 and 48.22.072; amending 1992 c 209 s  
3 6 (uncodified); and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.22.070 and 1992 c 209 s 2 are each amended to read  
6 as follows:

7 (1) Before July 1, 1992, the commissioner shall adopt rules  
8 establishing a reasonable plan to insure that workers' compensation  
9 coverage as required by the United States (~~(longshoreman's)~~) longshore  
10 and harbor (~~(worker's)~~) workers' compensation act, 33 U.S.C. Secs. 901  
11 through 950, and maritime employer's liability coverage incidental to  
12 the workers' compensation coverage is available to those unable to  
13 purchase it through the normal insurance market. This plan shall  
14 require the participation of all authorized insurers writing primary  
15 (~~(and)~~) or excess United States longshore and harbor workers'  
16 compensation insurance (~~(or reinsurance)~~) and the Washington state  
17 industrial insurance fund as defined in RCW 51.08.175 which is  
18 authorized to participate in the plan and to make payments in support  
19 of the plan in accordance with this section. Any underwriting losses

1 incurred by the plan shall be shared by plan participants in accordance  
2 with the following ratios: The state industrial insurance fund, fifty  
3 percent; and authorized insurers writing primary or excess United  
4 States (~~((longshoreman's))~~) longshore and harbor workers' compensation  
5 insurance, (~~((forty-eight))~~) fifty percent(~~(; and authorized insurers~~  
6 ~~writing excess workers' compensation insurance or reinsurance, two~~  
7 ~~percent))~~).

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

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

30 **Sec. 2.** RCW 48.22.072 and 1992 c 209 s 4 is amended to read as  
31 follows:

32 The committee appointed pursuant to RCW 48.22.071 shall submit a  
33 report to the legislature no later than January 1, (~~((1993, that~~  
34 ~~examines all aspects of the United States longshoreman's and harbor~~  
35 ~~worker's act, 22 U.S.C. Secs. 901 through 950, coverage, and incidental~~  
36 ~~maritime liability coverage, as it applies to Washington workers and~~  
37 ~~employers. This study shall include but not be limited to the ability~~  
38 ~~of private insurers to provide affordable coverage to eligible~~

1 ~~employers;~~) 1994 and 1995, summarizing the activities of the plan  
2 adopted under RCW 48.22.070 during its most recent fiscal year and  
3 since its inception. The committee shall in each report examine, based  
4 on the experience of the plan or other information made available to  
5 it, whether the Washington state industrial insurance fund should  
6 participate in the plan adopted pursuant to RCW 48.22.070; whether  
7 there are methods that will satisfy the intent of chapter 209, Laws of  
8 1992 that will not involve the Washington state industrial insurance  
9 fund; and the feasibility of requiring that this coverage be made  
10 directly available through the Washington state industrial insurance  
11 fund.

12       **Sec. 3.** 1992 c 209 s 6 (uncodified) is amended to read as follows:  
13       This act shall expire on July 1, (~~1993~~) 1995.

14       NEW SECTION.   **Sec. 4.** This act is necessary for the immediate  
15 preservation of the public peace, health, or safety, or support of the  
16 state government and its existing public institutions, and shall take  
17 effect immediately.

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