

# HOUSE BILL REPORT

## EHB 1917

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### As Passed Legislature

**Title:** An act relating to improving stability in industrial insurance premium rates.

**Brief Description:** Improving stability in industrial insurance premium rates.

**Sponsors:** By Representatives Conway, Wood and Chase.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 2/14/05, 3/1/05 [DP].

**Floor Activity:**

Passed House: 3/14/05, 96-0.

Passed Senate: 4/12/05, 41-0.

Passed Legislature.

### Brief Summary of Engrossed Bill

- Requires the Department of Labor and Industries (Department), in setting industrial insurance premium rates, to set rates designed to attempt to limit premium fluctuations.
- After the State Auditor issues an audit report, authorizes the Workers' Compensation Advisory Committee (WCAC) to make recommendations to the Department concerning the contingency reserve level and, when surplus funds exist, the circumstances under which premium dividends or temporary rate reductions may be implemented.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 4 members: Representatives Conway, Chair; Wood, Vice Chair; Hudgins and McCoy.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; and Crouse.

**Staff:** Chris Cordes (786-7103).

**Background:**

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

#### Industrial Insurance Funds

The industrial insurance trust fund administered by the Department 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 the Department 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 25 percent of the total composite premium (the total premium for all three funds).

#### Industrial Insurance Contingency Reserve

The industrial insurance trust fund includes a contingency reserve targeted, under Department 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, claims administration, and other liabilities of the funds. These liabilities include an actuarial calculation of estimated future claim and administrative costs for injuries already incurred on a discounted basis.

#### Industrial Insurance Premium Rate-Setting

The Department 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.

#### Workers' Compensation Advisory Committee

The Workers' Compensation Advisory Committee (WCAC) is a statutory committee composed of 10 members appointed by the Director of the Department. The members include three members representing state fund employers, one member representing self-insured employers, three member representing employees of state fund employers, one member representing employees of self-insured employers, and two non-voting ex officio members representing the Department and the Board of Industrial Insurance Appeals. The Department 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.

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### **Summary of Engrossed Bill:**

The Department of Labor and Industries (Department), in setting industrial insurance premium rates, must set rates designed to attempt to limit fluctuations in premium rates (in addition to maintaining actuarial solvency of the medical aid and accident funds).

After the State Auditor issues the first report on its audit of the industrial insurance system that will be required if either Substitute House Bill 1856 or Substitute Senate Bill 5614 are enacted, the Workers' Compensation Advisory Committee (WCAC) must review the report. If the WCAC deems it appropriate, the WCAC may make recommendations to the Department concerning the level of contingency reserve that is appropriate to maintain actuarial solvency of the Accident and Medical Aid Funds, limit premium rate fluctuations, and account for economic conditions. The recommendations may also address the circumstances under which the Department should give premium dividends or temporarily reduce rates when surplus funds exist in the trust funds. The WCAC may update its recommendations based on future audit reports of the State Auditor.

These provisions apply to industrial insurance premium rates that take effect on or after January 1, 2008.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support) Significant rate increases in recent years have made it a difficult time for workers' compensation in Washington. These rate hikes resulted partly from keeping rates too low in the 1990s because of the trust fund's significant investment earnings from the stock market. Over \$400 million was returned to employers, and then the stock market went way down. We need to learn from our mistakes because there is so much heartburn about rate increases. This has impacted employees too, who now pay around 28 percent of the standard premium.

(With concerns) Any requirements regarding the contingency reserve should be put on hold until after the fund audit is conducted. There is a need for everyone to understand the rates. The Workers' Compensation Advisory Committee could not act on any rules proposal until the fund audit has been completed. This bill would limit the Department's ability to cope with the economic climate. It seems unlikely that there will be such a confluence of favorable conditions again, with a good stock market, medical costs in check, and good return to work because of the economy. There is some chance that the bill would actually result in more rate volatility. For example, after holding the worker's medical aid premium below indicated rates for so long, the rate increase ultimately had to be 83 percent. In the last decade, rates are not keeping up with inflation.

**Testimony Against:** The focus should be on issues that will bring real system reform. This bill will not help that goal. Putting the contingency reserve in statute does not provide rate stability. In fact, rates could be driven up by the requirement for a contingency reserve. The reserve should only be a cushion to deflate an increase in rates, but this bill takes away Department tools. If reductions in reserves can only be made by holding rates down, the person who paid the premium may not be the same person who benefits from the rate reduction. Workers benefitted for many years from the reduced medical aid fund rates.

**Persons Testifying:** (In support) Robby Stern, Washington State Labor Council.

(With concerns) Amber Carter, Association of Washington Business; Carolyn Logue, National Federation of Independent Business; and Robert Malooly, Department of Labor and Industries.

(Opposed) Rick Slunaker, Associated General Contractors of Washington.

**Persons Signed In To Testify But Not Testifying:** None.