

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5053**

Chapter 281, Laws of 2007

60th Legislature  
2007 Regular Session

INDUSTRIAL INSURANCE--SELF-INSURED EMPLOYERS--OMBUDSMAN

EFFECTIVE DATE: 07/22/07

Passed by the Senate April 16, 2007  
YEAS 32 NAYS 15

BRAD OWEN

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**President of the Senate**

Passed by the House April 4, 2007  
YEAS 59 NAYS 35

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved May 2, 2007, 2:46 p.m.

CHRISTINE GREGOIRE

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5053** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

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**Secretary**

FILED

May 3, 2007

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5053**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

**State of Washington                      60th Legislature                      2007 Regular Session**

**By** Senate Committee on Labor, Commerce, Research & Development  
(originally sponsored by Senators Keiser, Kohl-Welles and Kline)

READ FIRST TIME 02/27/07.

1            AN ACT Relating to creating the office of the ombudsman for workers  
2 of industrial insurance self-insured employers; amending RCW 51.44.150;  
3 and adding new sections to chapter 51.14 RCW.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 51.14 RCW  
6 to read as follows:

7            The office of the ombudsman for workers of industrial insurance  
8 self-insured employers is created. The ombudsman shall be appointed by  
9 the governor and report directly to the director of the department.  
10 The office of the ombudsman may be openly and competitively contracted  
11 by the governor in accordance with chapter 39.29 RCW but shall not be  
12 physically housed within the industrial insurance division.

13            NEW SECTION.    **Sec. 2.** A new section is added to chapter 51.14 RCW  
14 to read as follows:

15            The person appointed ombudsman shall hold office for a term of six  
16 years and shall continue to hold office until reappointed or until his  
17 or her successor is appointed. The governor may remove the ombudsman

1 only for neglect of duty, misconduct, or inability to perform duties.  
2 Any vacancy shall be filled by similar appointment for the remainder of  
3 the unexpired term.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 51.14 RCW  
5 to read as follows:

6 Any ombudsman appointed under this chapter shall have training or  
7 experience, or both, in the following areas:

- 8 (1) Washington state industrial insurance including self-insurance  
9 programs;
- 10 (2) The Washington state legal system;
- 11 (3) Dispute or problem resolution techniques, including  
12 investigation, mediation, and negotiation.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.14 RCW  
14 to read as follows:

15 During the first two years after the office of the ombudsman is  
16 created, the staffing level shall be no more than four persons,  
17 including the ombudsman and any administrative staff. Thereafter, the  
18 staffing levels shall be determined based upon the office of the  
19 ombudsman's workload and whether any additional locations are needed.

20 NEW SECTION. **Sec. 5.** A new section is added to chapter 51.14 RCW  
21 to read as follows:

22 The office of the ombudsman shall have the following powers and  
23 duties:

- 24 (1) To act as an advocate for injured workers of self-insured  
25 employers;
- 26 (2) To offer and provide information on industrial insurance as  
27 appropriate to workers of self-insured employers;
- 28 (3) To identify, investigate, and facilitate resolution of  
29 industrial insurance complaints from workers of self-insured employers;
- 30 (4) To maintain a statewide toll-free telephone number for the  
31 receipt of complaints and inquiries; and
- 32 (5) To refer complaints to the department when appropriate.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 51.14 RCW  
34 to read as follows:

1 (1) The office of the ombudsman shall develop referral procedures  
2 for complaints by workers of self-insured employers. The department  
3 shall act as quickly as possible on any complaint referred to them by  
4 the office of the ombudsman.

5 (2) The department shall respond to any complaint against a  
6 self-insured employer referred to it by the office of the ombudsman and  
7 shall forward the office of the ombudsman a summary of the results of  
8 the investigation and action proposed or taken.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 51.14 RCW  
10 to read as follows:

11 (1) No ombudsman is liable for good faith performance of  
12 responsibilities under this chapter.

13 (2) No discriminatory, disciplinary, or retaliatory action may be  
14 taken against any employee of a self-insured employer for any  
15 communication made, or information given or disclosed, to assist the  
16 ombudsman in carrying out its duties and responsibilities, unless the  
17 same was done maliciously. This subsection is not intended to infringe  
18 on the rights of the employer to supervise, discipline, or terminate an  
19 employee for other reasons.

20 (3) All communications by the ombudsman, if reasonably related to  
21 the requirements of his or her responsibilities under this chapter and  
22 done in good faith, are privileged and confidential, and this shall  
23 serve as a defense to any action in libel or slander.

24 (4) Representatives of the office of the ombudsman are exempt from  
25 being required to testify as to any privileged or confidential matters  
26 except as the court may deem necessary to enforce this chapter.

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 51.14 RCW  
28 to read as follows:

29 All records and files of the ombudsman relating to any complaint or  
30 investigation made pursuant to carrying out its duties and the  
31 identities of complainants, witnesses, or injured workers shall remain  
32 confidential unless disclosure is authorized by the complainant or  
33 injured worker or his or her guardian or legal representative. No  
34 disclosures may be made outside the office of the ombudsman without the  
35 consent of any named witness or complainant unless the disclosure is  
36 made without the identity of any of these individuals being disclosed.

1        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 51.14 RCW  
2 to read as follows:

3        The ombudsman shall integrate into existing posters and brochures  
4 information explaining the ombudsman program. Both the posters and the  
5 brochures shall contain the ombudsman's toll-free telephone number.  
6 Every self-insured employer must place a poster in an area where all  
7 workers have access to it. The self-insured employer must provide a  
8 brochure to all injured workers at the time the employer is notified of  
9 the worker's injury.

10       NEW SECTION.    **Sec. 10.**    A new section is added to chapter 51.14 RCW  
11 to read as follows:

12        (1) To provide start-up funding for the office of the ombudsman,  
13 the department shall impose a one-time assessment on all self-insurers.  
14 The amount of the assessment shall be determined by the department and  
15 shall not exceed the amount needed to pay the start-up costs.

16        (2) Ongoing funding for the office of the ombudsman shall be  
17 obtained as part of an annual administrative assessment of  
18 self-insurers under RCW 51.44.150. This assessment shall be  
19 proportionately based on the number of claims for each self-insurer  
20 during the past year.

21        **Sec. 11.**    RCW 51.44.150 and 1971 ex.s. c 289 s 59 are each amended  
22 to read as follows:

23        The director shall impose and collect assessments each fiscal year  
24 upon all self-insurers in the amount of the estimated costs of  
25 administering their portion of this title during such fiscal year.  
26 These assessments shall also include the assessments for the  
27 ombudsman's office provided for in section 10 of this act. The time  
28 and manner of imposing and collecting assessments due the department  
29 shall be set forth in regulations promulgated by the director in  
30 accordance with chapter 34.05 RCW.

31       NEW SECTION.    **Sec. 12.**    A new section is added to chapter 51.14 RCW  
32 to read as follows:

33        (1) The ombudsman shall provide the governor with an annual report  
34 that includes the following:

1 (a) A description of the issues addressed during the past year and  
2 a very brief description of case scenarios in a form that does not  
3 compromise confidentiality;

4 (b) An accounting of the monitoring activities by the ombudsman;  
5 and

6 (c) An identification of the deficiencies in the industrial  
7 insurance system related to self-insurers, if any, and recommendations  
8 for remedial action in policy or practice.

9 (2) The first annual report shall be due on or before October 1,  
10 2008. Subsequent reports shall be due on or before October 1st.

Passed by the Senate April 16, 2007.

Passed by the House April 4, 2007.

Approved by the Governor May 2, 2007.

Filed in Office of Secretary of State May 3, 2007.