

FINAL BILL REPORT

HB 3061

C 213 L 10
Synopsis as Enacted

Brief Description: Addressing claims of insolvent self-insurers under industrial insurance.

Sponsors: Representative Condotta.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Consumer Protection

Background:

Employers must provide industrial insurance through the State Fund administered by the Department of Labor and Industries (Department) or, if qualified, may self-insure. Certain public entities (school districts, educational service districts, and public hospitals) may self-insure as groups.

To be certified by the Department as a self-insurer, an employer must have sufficient financial ability to ensure prompt payment of compensation to its injured workers and must meet other requirements. The Department requires self-insurers to provide surety in an amount determined by the Department to cover the self-insurer's industrial insurance liabilities. The surety may be cash, corporate or governmental securities, a bond, or a letter of credit. The Director of the Department (Director) may withdraw the certification of a self-insurer if the employer no longer meets the requirements of a self-insurer, the deposit is insufficient, or the employer engages in specified acts.

If a self-insurer defaults on any industrial insurance obligation, the Director may take steps to fulfill the defaulting employer's obligations from the surety deposit. If the surety is exhausted, costs are paid from a self-insurers' Insolvency Trust Fund. Private self-insured employers pay an assessment into the Insolvency Trust Fund in proportion to their claim costs.

When an industrial injury results in death or permanent total disability, a self-insured employer must pay into the Pension Reserve Fund (or provide a bond or annuity) for the costs of the injury. However, when death or permanent total disability is partially caused by a prior injury, pension costs resulting from the prior injury are paid by the Second Injury Fund. In all pension or death cases, the Department must evaluate whether payment should be made from the Second Injury Fund.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary:

If a self-insured employer is in default, the Department must transfer the balance of the employer's surety into the Insolvency Trust Fund when all claims against the self-insurer are closed and the self-insurer has been in default for 10 years.

If a self-insurer employer is in default or the Director has withdrawn a self-insurer's certification, the Department does not evaluate whether payment should be made from the Second Injury Fund in permanent total disability or death cases. Instead, in such cases the costs of the pension reserve must first be assessed against the self-insurer's surety and where the surety is insufficient, the remaining cost must be assessed against the Insolvency Trust Fund.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: June 10, 2010