S-1553.1

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**SUBSTITUTE SENATE BILL 5524**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Van De Wege, Keiser, Lovick, Cleveland, Conway, Hasegawa, and Holy)

AN ACT Relating to industrial insurance self-insured municipal employers and third-party administrators; amending RCW 51.14.080; adding a new section to chapter 51.14 RCW; and creating a new section.

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

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

(1) All self-insured municipal employers and their third-party administrators have a duty of good faith and fair dealing to workers relating to all aspects of this title.

(2) A municipal employer violates its duty to the worker if the self-insured municipal employer or its third-party administrator coerces a worker to accept less than the compensation due under this title, or otherwise fails to act in good faith and deal fairly regarding its obligations under this title.

(3) The department must adopt by rule additional applications of the duty of good faith and fair dealing as well as criteria for determining appropriate penalties for violations. In adopting a rule under this subsection, the department must consider, among other factors, recognized and approved claim processing practices within the insurance industry, the department's own experience, and the industrial insurance and insurance laws and rules of this state.

(4) The department must investigate each alleged violation of this section upon the filing of a written complaint or upon its own motion. After receipt of notice from the department, the self-insured municipal employer or its third-party administrator may file a written response within 30 calendar days. If the self-insured municipal employer or third-party administrator fails to file a timely response, the department shall issue an order based on available information.

(5) A department order determining whether a violation has occurred and conforming with RCW 51.52.050 must be issued within 30 calendar days of receipt of a complete complaint or its own motion. An order finding that a violation of subsection (2) of this section has occurred must also order the employer to pay a penalty of one to 52 times the average weekly wage at the time of the order, depending upon the severity of the violation, which accrues for the benefit of the worker.

**Sec.**  RCW 51.14.080 and 1986 c 57 s 7 are each amended to read as follows:

(1) Certification of a self-insurer shall be withdrawn by the director upon one or more of the following grounds:

((~~(1)~~)) (a) The employer no longer meets the requirements of a self-insurer; or

((~~(2)~~)) (b) The self-insurer's deposit is insufficient; or

((~~(3)~~)) (c) The self-insurer intentionally or repeatedly induces employees to fail to report injuries, induces claimants to treat injuries in the course of employment as off-the-job injuries, persuades claimants to accept less than the compensation due, or unreasonably makes it necessary for claimants to resort to proceedings against the employer to obtain compensation; or

((~~(4)~~)) (d) The self-insurer habitually fails to comply with rules and regulations of the director regarding reports or other requirements necessary to carry out the purposes of this title; or

((~~(5)~~)) (e) The self-insurer habitually engages in a practice of arbitrarily or unreasonably refusing employment to applicants for employment or discharging employees because of nondisabling bodily conditions; or

((~~(6)~~)) (f) The self-insurer fails to pay an insolvency assessment under the procedures established pursuant to RCW 51.14.077; or

(g) For a self-insured municipal employer, the self-insurer has been found to have violated the self-insurer's duty of good faith and fair dealing three times within a three-year period. For purposes of determining whether there have been three violations within a three-year period, the director must use the date of the department's order. Any subsequent order of the department, board of industrial insurance appeals, or courts affirming a violation occurred relates back to the date of the department's order.

(2) The director may delay withdrawing the certification of the self-insured municipal employer while the employer has an enforceable contract with a licensed third-party administrator that may not be legally terminated. However, the self-insured municipal employer may not renew or extend the contract.

NEW SECTION. **Sec.**  This act applies to alleged violations occurring on or after July 1, 2024.

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