

# SENATE BILL REPORT

## SB 5463

---

---

As of February 2, 2025

**Title:** An act relating to the duties of industrial insurance self-insured employers and third-party administrators.

**Brief Description:** Concerning the duties of industrial insurance self-insured employers and third-party administrators.

**Sponsors:** Senators Alvarado, Conway, Saldaña, Salomon, Nobles, Valdez, Hasegawa, Stanford, Robinson, Shewmake, Trudeau, Bateman, Chapman, Harris, Liias, Cleveland, Holy, Lovelett and Wilson, C..

**Brief History:**

**Committee Activity:** Labor & Commerce: 2/04/25.

**Brief Summary of Bill**

- Applies the duty of good faith and fair dealing to all workers' compensation self-insurers and third-party administrators, rather than only self-insured municipal employers, self-insured private sector firefighter employers, and their third-party administrators.
- Allows the Department of Labor and Industries to withdraw any self-insurer's certification when the self-insurer has been found to have violated the duty of good faith and fair dealing three times within a three-year period, rather than just the certification of a municipal self-insurer.

---

**SENATE COMMITTEE ON LABOR & COMMERCE**

**Staff:** Susan Jones (786-7404)

**Background:** Workers' Compensation—General. Workers who, in the course of

---

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

employment, are injured or disabled from an occupational disease are entitled to workers' compensation benefits, which may include medical, temporary time-loss, vocational rehabilitation benefits, and permanent disability benefits. The Department of Labor and Industries (L&I) administers the state's workers' compensation system. In Washington, all employers must provide workers' compensation coverage for their employees either by:

- insuring through the state fund by paying premiums to L&I; or
- qualifying as a self-insurer.

Self-Insured Employers. Self-insurance is a program in which the employer covers all costs associated with an on-the-job injury or occupational disease. Self-insured employers administer their own claims, and must maintain records of all payments and disputes. Self-insured employers may contract with certain third-party administrator to administer claims.

An employer may qualify as a self-insurer by establishing to L&I's satisfaction that the employer has sufficient financial ability to make certain the prompt payment of all workers' compensation benefits and all assessments which may become due from the employer.

Duty of Good Faith and Fair Dealing for Certain Self-Insurers. All self-insured municipal employers and self-insured private sector firefighter employers and their third-party administrators (TPAs) have a duty of good faith and fair dealing to workers relating to all aspects of the workers' compensation laws. The duty of good faith requires fair dealing and equal consideration for the worker's interests. A self-insured municipal employer or self-insured private sector firefighter employer or their TPA violates its duty to the worker if it coerces a worker to accept less than the compensation due under the law, or otherwise fails to act in good faith and fair dealing regarding its obligations under the law.

L&I was required to and did adopt a rule providing for 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, L&I must consider recognized and approved claim processing practices within the insurance industry, L&I's own experience, and Washington State's worker's compensation and insurance laws and rules.

L&I must investigate alleged violations upon the filing of a written complaint or upon its own motion. After receiving notice and a request for a response from L&I, the municipal employer or private sector firefighter employer or their TPA may file a written response within ten working days. If the municipal employer or private sector firefighter employer or their TPA fails to file a timely response, L&I shall issue an order based on available information. L&I must issue an order determining whether a violation has occurred within 30 calendar days of receipt of a complete complaint or its own motion. An order finding that a violation has occurred must also order the municipal employer or private sector firefighter employer to pay a penalty of 1 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.

Municipal means any counties, cities, towns, port districts, water-sewer districts, school districts, metropolitan park districts, fire districts, public hospital districts, regional fire protection service authorities, education service districts, or such other units of local government. Private sector firefighter employer means any private sector employer who employs over 50 firefighters, including supervisors, on a full-time, fully compensated basis as a firefighter of the employer's fire department, only with respect to their firefighters.

Decertification. Certification of a self-insurer must be withdrawn when the self-insurer under certain circumstances, including when the employer is a municipal employer and has been found to have violated the self-insurer's duty of good faith and fair dealing three times within a three-year period. The L&I 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. The self-insured municipal employer may not renew or extend the contract.

**Summary of Bill:** The duty of good faith and fair dealing applies to all workers' compensation self-insurers and third-party administrators, rather than only self-insured municipal employers and self-insured private sector firefighter employers and their third-party administrators. L&I's authority to withdraw a self-insurer's certification when an employer has been found to have violated the self-insurer's duty of good faith and fair dealing three times within a three-year period applies to all self-insurers.

**Appropriation:** None.

**Fiscal Note:** Requested on January 25, 2025.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on January 1, 2026.