

This section shall expire on July 1, 1988.

NEW SECTION. Sec. 3. There is appropriated twenty-four thousand five hundred dollars from the medical aid fund of the department of labor and industries and twenty-four thousand five hundred dollars from the accident fund of the department of labor and industries, or so much thereof as may be necessary, to the department of labor and industries for the biennium ending June 30, 1987, to carry out the purposes of section 2 of this act.

NEW SECTION. Sec. 4. Section 1 of this act shall take effect July 1, 1986, and shall apply to claims accepted after June 30, 1986.

Passed the House February 12, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 56

[House Bill No. 1721]

INDUSTRIAL INSURANCE—SUPPLEMENTAL PENSION FUND—
OCCUPATIONAL DISEASE

AN ACT Relating to the supplemental pension fund; and amending RCW 51.48.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 65, chapter 289, Laws of 1971 ex. sess. and RCW 51.48.110 are each amended to read as follows:

Where death results from the injury or occupational disease and the deceased leaves no beneficiaries, a self-insurer shall pay into the supplemental pension fund the sum of ten thousand dollars.

Passed the House February 14, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 57

[Substitute House Bill No. 1783]

INDUSTRIAL INSURANCE—SELF-INSURERS—SECURITY REQUIREMENTS

AN ACT Relating to securing the obligations of self-insured employers; amending RCW 51.14.020, 51.14.060, 51.14.070, and 51.14.080; adding new sections to chapter 51.14 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 27, chapter 289, Laws of 1971 ex. sess. as last amended by section 9, chapter 323, Laws of 1977 ex. sess. and RCW 51.14.020 are each amended to read as follows:

(1) An employer may qualify as a self-insurer by establishing to the director's satisfaction that he or she has sufficient financial ability to make certain the prompt payment of all compensation under this title and all assessments which may become due from such employer. Each application for certification as a self-insurer submitted by an employer shall be accompanied by payment of a fee of one hundred fifty dollars or such larger sum as the director shall find necessary for the administrative costs of evaluation of the applicant's qualifications. Any employer who has formerly been certified as a self-insurer and thereafter ceases to be so certified may not apply for certification within three years of ceasing to have been so certified.

(2) A self-insurer may be required by the director to supplement existing financial ability by depositing in an escrow account in a depository designated by the director, money and/or corporate or governmental securities approved by the director, or a surety bond written by any company admitted to transact surety business in this state filed with the department. The money, securities, or bond shall be in an amount reasonably sufficient in the director's discretion to insure payment of reasonably foreseeable compensation and assessments but not less than the employer's normal expected annual claim liabilities and in no event less than one hundred thousand dollars. In arriving at the amount of money, securities, or bond required under this subsection, the director shall take into consideration the financial ability of the employer to pay compensation and assessments and his or her probable continuity of operation. The money, securities, or bond so deposited shall be held by the director to secure the payment of compensation by the self-insurer and to secure payment of his or her assessments. The amount of security may be increased or decreased from time to time by the director. The income from any securities deposited may be distributed currently to the self-insurer.

(3) Securities or money deposited by an employer pursuant to subsection (2) of this section shall be returned to him or her upon his or her written request provided the employer files the bond required by such subsection.

(4) If the employer seeking to qualify as a self-insurer has previously insured with the state fund, the director shall require the employer to make up his or her proper share of any deficit or insufficiency in the state fund as a condition to certification as a self-insurer.

(5) A self-insurer may reinsure a portion of his or her liability under this title with any reinsurer authorized to transact such reinsurance in this state: PROVIDED, That the reinsurer may not participate in the administration of the responsibilities of the self-insurer under this title. Such reinsurance may not exceed eighty percent of the liabilities under this title.

(6) For purposes of the application of this section, the department may adopt separate rules establishing the security requirements applicable to units of local government. In setting such requirements, the department

shall take into consideration the ability of the governmental unit to meet its self-insured obligations, such as but not limited to source of funds, permanency, and right of default.

Sec. 2. Section 31, chapter 289, Laws of 1971 ex. sess. and RCW 51.14.060 are each amended to read as follows:

(1) The director may, in cases of default upon any obligation under this title by the self-insurer, after ten days notice by certified mail to the defaulting self-insurer of ~~((his))~~ the intention to do so, bring suit upon such bond or collect the interest and principal of any of the securities as they may become due or sell the securities or any of them as may be required or apply the money deposited, all in order to pay compensation~~(;)~~ and discharge the obligations of the defaulting self-insurer under this title~~(, and pay premiums for future insurance of the employer's obligations))~~.

(2) The director shall be authorized to fulfill the defaulting self-insured employer's obligations under this title~~(, paying the necessary premium)~~ from the defaulting self-insured employer's deposit or from other funds provided under this title for the satisfaction of claims against the defaulting self-insured employer~~(, and having subrogation rights against the defaulting employer to the extent of any funds, other than the employer's deposit, expended for the payment of premiums or compensation in performance of the defaulting employer's obligations))~~. The defaulting self-insured employer is liable to and shall reimburse the director for the amounts necessary to fulfill the obligations of the defaulting self-insured employer that are in excess of the amounts received by the director from any bond filed, or securities or money deposited, by the defaulting self-insured employer pursuant to chapter 51.14 RCW. The amounts to be reimbursed shall include all amounts paid or payable as compensation under this title together with administrative costs, including attorneys' fees, and shall be considered taxes due the state of Washington.

Sec. 3. Section 36, chapter 289, Laws of 1971 ex. sess. and RCW 51.14.070 are each amended to read as follows:

~~((+))~~ Whenever compensation due under this title is not paid because of an uncorrected default of a self-insurer, such compensation shall be paid from the medical aid and accidents funds ~~((only after the moneys available from the bonds or other security provided under RCW 51.14.020 have been exhausted:~~

~~(2) Such defaulting self-insurer or surety, if any, shall be liable for payment into the appropriate fund of the amounts paid therefrom by the director, and for the purpose of enforcing this liability the director, for the benefit of the appropriate fund, shall be subrogated to all of the rights of the person receiving such compensation)), and any moneys obtained by the director from the bonds or other security provided under RCW 51.14.020 shall be deposited to the appropriate fund for the payment of compensation and administrative costs, including attorneys' fees.~~

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

(1) In all cases of probate, insolvency, assignment for the benefit of creditors, or bankruptcy, the claim of the state for the amounts necessary to fulfill the obligations of a defaulting self-insured employer together with administrative costs and attorneys' fees is a lien prior to all other liens or claims and on a parity with prior tax liens and the mere existence of a default by a self-insured employer is sufficient to create the lien without any prior or subsequent action by the state. All administrators, receivers, and assignees for the benefit of creditors shall notify the director of such administration, receivership, or assignment within thirty days of their appointment or qualification.

(2) Separate and apart and in addition to the lien established by this section, the department may issue an assessment, as provided for in RCW 51.48.120, for the amount necessary to fulfill the defaulting self-insured employer's obligations, including all amounts paid and payable as compensation under this title and administrative costs, including attorneys' fees.

NEW SECTION. Sec. 5. It is the intent of the legislature to provide for the continuation of workers' compensation benefits in the event of the failure of a self-insured employer to meet its compensation obligations when the employer's security deposit, assets, and reinsurance are inadequate. The legislature finds and declares that the establishment of a self-insurers' insolvency trust is necessary to assure that benefit payments to injured workers of self-insured employers will not become the responsibility of the state fund.

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

(1) A self-insurers' insolvency trust is established to provide for the unsecured benefits paid to the injured workers of self-insured employers under this title for insolvent or defaulting self-insured employers and for the department's associated administrative costs, including attorneys' fees. The self-insurers' insolvency trust shall be funded by an insolvency assessment which shall be levied on a post-insolvency basis and after the defaulting self-insured employer's security deposit, assets, and reinsurance, if any, have been exhausted. Insolvency assessments shall be imposed on all self-insured employers, except school districts, cities, and counties. The manner of imposing and collecting assessments to the insolvency fund shall be set forth in rules adopted by the department to ensure that self-insured employers pay into the fund in proportion to their claim costs. The department's rules shall provide that self-insured employers who have surrendered their certification shall be assessed for a period of not more than three calendar years following the termination date of their certification.

(2) The director shall adopt rules to carry out the purposes of this section, including but not limited to:

- (a) Governing the formation of the self-insurers' insolvency trust for the purpose of this chapter;
- (b) Governing the organization and operation of the self-insurers' insolvency trust to assure compliance with the requirements of this chapter;
- (c) Requiring adequate accountability of the collection and disbursement of funds in the self-insurers' insolvency trust; and
- (d) Any other provisions necessary to carry out the requirements of this chapter.

Sec. 7. Section 32, chapter 289, Laws of 1971 ex. sess. and RCW 51.14.080 are each amended to read as follows:

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

- (1) The employer no longer meets the requirements of a self-insurer;
- or
- (2) The self-insurer's deposit is insufficient; or
 - (3) 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) 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) 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) The self-insurer fails to pay an insolvency assessment under the procedures established pursuant to section 6 of this 1986 act.

Passed the House February 12, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 58

[Substitute House Bill No. 1873]

INDUSTRIAL INSURANCE BENEFITS—INJURED WORKERS—OPTIONS— IMMUNOLOGICAL TREATMENT

AN ACT Relating to benefits for injured workers; amending RCW 51.24.030, 51.32.080, 51.32.050, 51.32.060, and 51.36.010; adding a new section to chapter 51.32 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington: