

HB 1808 -- Workers' Compensation

Sponsor: Cox

This bill changes the laws regarding workers' compensation. In its main provisions, the bill:

- (1) Specifies that a "serious injury" includes quadriplegia; paraplegia; amputation of hand, arm, or leg; atrophy to the nerve injury or nonuse; and back injuries not amenable alone to recognized medical and surgical procedures;
- (2) Requires groups of employers who self-insure their liability do so as a trust and to post security in an amount determined by the Division of Workers' Compensation within the Department of Labor and Industrial Relations based on a review of certain risk factors. The security must be by an escrow agreement, surety bond, or irrevocable letter of credit;
- (3) Specifies the procedure for a self-insured employer to withdraw from a trust;
- (4) Specifies the procedure for a self-insured employer or a group self-insured employer who reincorporates, merges, consolidates, or undergoes any other corporate change to notify the division and the right of the division to terminate or reinstate certification of a self-insured employer or a group self-insured employer to continue to self-insure;
- (5) Adds occupational disease to the list of reasons for which a cause of action against an employer may be filed;
- (6) Removes the option of an injured employee to request the division to approve compensation for medical expenses from the Second Injury Fund;
- (7) Specifies the procedure for recovery of securities by the division from a self-insured employer or a group self-insured employer in default;
- (8) Specifies that a self-insured employer, group, or trust may request an evidentiary hearing before an administrative law judge within 30 days from the date of a final order by the division to terminate, revoke, or suspend the self-insured status of the employer, group, or trust;
- (9) Specifies that records submitted by any claimant or self-insured employer, group, or trust against a claim will not be secondarily released;

(10) Specifies that an employer or his or her insurer filing a report of an injury to the division may do so by electronic data transmission;

(11) Requires all data collected and maintained by the division to be in a form compatible with the electronic data interchange system of the International Association of Industrial Accident Boards and Commissions;

(12) Specifies that certain records maintained by the division are confidential, except that a court of law may subpoena records relevant to a pending matter or a duly executed and notarized authorization to release workers' compensation records from the employee;

(13) Specifies that no insurer, employee, or agent of any insurer or any other person acting without malice is subject to civil liability for libel or otherwise by virtue of the filing of reports or furnishing other information required by the division;

(14) Requires that at the end of any calendar year any overpayment of the surcharge that provides revenue for the Second Injury Fund be credited against the surcharge amount required in the following year;

(15) Specifies that any payments made to the division will be deemed received the earlier of either the date postmarked by the United States Post Office or the date certified by a commercial delivery on the envelope or container. Electronic payments will be deemed made on the date the payment was received by the division;

(16) Specifies the procedure for receiving a refund of an overpayment to the Administrative Fund and the Second Injury Fund by an employer when no other obligation is owed the state;

(17) Requires a 1.5% per month late charge on any delinquent surcharge payment to the Second Injury Fund; and

(18) Requires a self-insured employer or member of a self-insured group voluntarily withdrawing its self-insured authority or that has had its self-insured authority terminated or revoked to continue to use the most recent experience modification factor for up to three years or until an approved advisory organization establishes another experience modification factor.