

SB 5463, Punishing Self-Insured Employers

Background

In 2023, the Legislature passed HB 1521, imposing a "duty of good faith and fair dealing" on municipal employers managing workers' compensation. The law arose from firefighter union concerns about claims handling by a small number of cities. It introduced severe administrative penalties, including up to 52 weeks of the state's average weekly wage, and a "three strikes" rule that could decertify municipal employers from self-insurance.

Now, SB 5463 seeks to extend these provisions to over 300 additional self-insured employers across all industry sectors, creating significant risks and unintended consequences.

Not Needed: Robust Regulations Already Exist

- Self-insured workers' comp programs are already subject to stringent oversight by the Department of Labor & Industries (L&I):
 - Continuous reporting of all claims.
 - Quarterly and annual reporting of program performance.
 - Annual audits with potential penalties up to and including decertification.
- Claims managers for self-insured programs are held to higher standards than State Fund administrators, requiring:
 - State certification, including 72 hours of pre-certification training and professional designation.
 - Adherence to a Code of Ethics and passing a certification exam.
 - Ongoing continuing education to maintain certification.
- TPAs managing claims must be licensed by L&I, follow strict regulations, and face penalties for violations under current law.

Solves No Problems: Unnecessary and Harmful

- This bill does not improve worker benefits, workplace safety, or claims administration.
- It introduces vague and novel legal standards solely to punish employers, with excessive penalties for perceived violations, which may involve reasonable disagreements over benefit entitlement or amounts.
- HB 1521 effectively addressed firefighter-specific concerns. No violations have been found under the law since its implementation in 2024, reflecting strong compliance.

Creates Severe Unintended Consequences

- Decertification risks destabilizing employers' financial liabilities, which could amount to millions or hundreds of millions of dollars.
- L&I is already struggling with the ramifications of "three strikes" for municipal employers as demonstrated by their request bill this session.
- The State Fund is unprepared to absorb claims administration or benefit costs from decertified self-insurers.
- Heightened risks of losing self-insured status under vague standards make it harder for private employers to secure collateral and reinsurance – obligations required of them by current law.