



Department of Consumer and Business Services

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Before the
Senate Business and Transportation Committee

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SB 1558

Testimony of
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Department of Consumer and Business Services

For the record, my name is Patrick Allen. I am the Director of the Department of Consumer and Business Services. I am here today to provide testimony about SB 1558 and the proposed -1 amendments.

We thank your committee for introducing this bill on behalf of the department. The department presented an overview of self-insurance and this concept during the November and January interim days. My testimony today will not go into great detail, other than to describe the main objectives of the bill and the proposed -1 amendments.

Employers have options to cover their workers' compensation obligations, including purchase of private insurance or self-insuring their risks individually or as a group. Recently the department has encountered issues with the group self-insured employers, including the bankruptcy of a large construction contractor group and decertification of a group of non-profits. These issues highlighted some limits in the laws applying to self-insured groups and led the department to develop a legislative concept for your consideration this session.

The first goal of the concept is to provide an orderly exit from group self-insurance that caps members' collective liabilities. All self-insured employer groups will need to meet the voting requirement under the bill and weigh in on the one-time opportunity to exit group self insurance and limit their future joint and several liabilities. Groups that choose to decertify by a specific date will forfeit their common claims fund and security deposit to the department. These are funds whose purpose is to pay for claim related expenses. If these funds are exhausted, the Worker Benefit Fund would pay any remaining claim costs not covered by the deposits. Members of the group would not be liable thereafter for claim liability. Employer members from exiting groups would be responsible for obtaining carrier insurance or individually self-insuring.

The bill requires a vote of all current group members, and the decision for the group to continue certification or decertify must reflect a majority of the group membership. It also requires the groups provide notice to each group member outlining the consequences of the vote.

The two groups that are already decertified would not be required to conduct a vote. Under the bill, they are automatically eligible for Worker Benefit Fund expenditures on claims if their deposits on file with the department have been exhausted.

Second, the bill better protects injured workers, and the future stability of self-insured groups that remain or become certified, by holding self-insured groups to higher standards and giving DCBS more regulatory authority over groups.

Groups that choose to continue operating will also be held to higher standards, including increased illustration of financial health. The department will develop these standards through the public administrative rulemaking process.

The bill also expands the authority of DCBS over future decertified groups to ensure group members continue to pay for their incurred liabilities. We want to

ensure workers from decertified and bankrupt groups receive benefits they are entitled to receive. The bill gives the department more authority to ensure timely benefit payments and that decertified groups continue to meet their obligations. This includes appointing a claims processor, if needed. To eliminate some inherent conflicts of interest, the bill also prohibits private groups from having their claim administrator as a member of the group or sit on the board of directors.

SB 1558 makes a few other changes. The bill reduces the statutory balance of the Worker Benefit Fund to not less than six months of expenditures to minimize the possibility of an immediate assessment increase on employers and workers that pay into the fund. The Management-Labor Advisory Committee is required to review the Worker Benefit Fund changes and provide a recommendation to the 2019 session about that change. The bill also requires the department to maintain separate reserve accounts for public and private groups after the bill takes effect.

We would like to thank the self-insured employer groups for their input on this bill. We appreciate their interest in improving the bill and making it work for everyone. Based on their input, we have asked for the -1 amendment to address practicalities and minimize inconvenience on the operations of the groups.

The -1 amendment extends the time frames in the bill. The bill will take effect on April 1. The voting to exit group self-insurance must be conducted by July 1, 2014. The ability to have the WBF pick up claims costs would extend to groups that decertify by September 15.

The amendment also modifies the notice to group members required under the bill to be in a form by the prescribed director. This will ensure consistent information about the consequences of the vote is provided to every group member in all five groups.

We have also proposed to adjust the voting requirement for public groups. These two groups have a large number of members that are also in the process of policy renewal during the same time period covered by the bill. The two public groups would be allowed to use their existing renewal process and let that count as the vote required under the bill.

Finally, the -1 amendment clarifies that the Workers' Benefit Fund expenditures for decertified groups starts April 1, 2014, for the currently decertified groups, and extends to any group that chooses to decertify by September 15, 2014.

The Management-Labor Advisory Committee (MLAC) heard input about this bill on January 17 and January 31. The committee recommended the legislature support this bill with the -1 amendment.

Thank you for the opportunity to testify. I would be happy to answer any questions.