

Initiative Measure**1082**

Proposed by initiative petition:

Initiative Measure No. 1082 concerns industrial insurance.

This measure would authorize employers to purchase private industrial insurance beginning July 1, 2012; direct the legislature to enact conforming legislation by March 1, 2012; and eliminate the worker-paid share of medical-benefit premiums.

Should this measure be enacted into law?

Yes

No

The Official Ballot Title and the Explanatory Statement were written by the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Initiative Measure 1082 begins on page 64.

Explanatory Statement

Written by the Office of the Attorney General

The Law as it Presently Exists

The state has laws establishing a system of industrial insurance, administered by the Department of Labor & Industries. With limited exceptions, this system provides medical benefits and other compensation to all employees who suffer illness, disability, or death resulting from employment-related injuries, without regard to questions of fault. Based upon this system, the law prohibits employees from suing their employers for damages for work-related injuries, with limited exceptions.

The Department of Labor & Industries administers an industrial insurance fund which pays the benefits to which injured employees are determined to be entitled. The fund's primary source of revenue is a system of insurance premiums paid into the fund by employers, at rates determined by the Department based on the individual claims experience of the employer, the claim history of particular classes of employers, and the need for revenue to pay the fund's obligations. Employees are assessed by their employers one-half of the amount the employer is required to pay for the medical benefit portion of premiums, with certain exceptions. These amounts are deducted from the employees' pay.

Under current law, every employer covered by the industrial insurance laws must either (1) participate in the state program administered by the Department of Labor & Industries or (2) qualify as a self-insured employer. Self-insured employers qualify by satisfying the Department that they have sufficient financial ability to make prompt and certain payment of compensation and premium assessments charged against those employers. Whether the employer participates in the state program or is self-insured, the Department reviews and decides all employee claims, subject to appeal to the board of industrial insurance appeals, and thereafter to superior court.

The Effect of the Proposed Measure, if Approved

This measure would establish a third option for employers beyond either participating in the state industrial insurance fund or qualifying as self-insurers. Beginning on July 1, 2012, employers could instead purchase industrial insurance from qualified private industrial insurance insurers. Companies could qualify to issue industrial insurance policies through licensing and regulation by the state insurance commissioner. Private industrial insurers would have the same rights and responsibilities under the industrial insurance laws as the Department of Labor & Industries, and claim decisions by private industrial insurers could be appealed in the same manner as claim decisions by the Department.

The measure would create an industrial insurance administrative fund and would direct that appropriations be made to the fund to pay the expenses of the state insurance commissioner and the board of industrial insurance appeals in performing their responsibilities. The measure would establish a joint legislative task force

with members representing the legislature, employers, industrial insurers, and employees. The task force would be directed to develop proposed legislation to conform current statutes to the provisions of this measure. The measure states that the legislature would be required to adopt supplemental legislation implementing this measure by March 1, 2012.

The measure would repeal language authorizing employers to assess their employees for one-half of the amount the employer is required to pay for the medical benefit portion of the premium, and to deduct these amounts from the employees' pay. The entire premium for the medical benefit would be paid by the employer.

Fiscal Impact Statement

Written by the Office of Financial Management

Fiscal Impact

Industrial insurance premium paid into state Trust Funds is estimated to decrease \$1.1 billion – \$1.43 billion by calendar year 2014 as employers shift to private insurers. State claim costs correspondingly decrease as claims shift from the state to private insurers. State revenue is estimated to increase \$61 million – \$75 million over five fiscal years. Costs are estimated to increase up to \$202 million for the state and \$47.25 million for local governments over five fiscal years. Assuming no legislative action to conform statutes to the initiative, industrial insurance premium paid into state Trust Funds and associated costs may increase.

General Assumptions

Some estimates are based on the state's fiscal year (FY) of July 1 through June 30. Some estimates are based on a calendar year (CY).

Existing benefits levels to injured employees are maintained.

Private insurers can provide industrial insurance coverage beginning July 1, 2012.

The state will remain insured by the state's industrial insurance program (State Fund). Local governments that are not self-insured will also remain covered by the State Fund.

Self-insured employers remain self-insured. No assumption is made that self-insured employers will seek industrial insurance from private

insurers or the State Fund.

Private insurers will acquire 38.3 percent of the industrial insurance market in CY 2013, growing to 53.3 percent in CY 2014. This assumption is based on the average percentage of State Fund premium in other states with competitive State Fund programs using information from the National Council on Compensation Insurance. Growth in private industrial insurance is based on the assumption that large employers and participants in retrospective rating programs, which represent more than half of the State Fund, are more likely to change to private insurers.

Of the industrial insurance market, 6.2 percent will be referred to the assigned risk plan. This assumption is based on the average percentage of market assigned to risk plans in all states that use information from the National Council on Compensation Insurance.

State and Local Revenue Assumptions

Industrial Insurance Premiums

The state's Industrial Insurance Trust Funds (state Trust Funds) are self-contained funds into which employers pay premiums for no-fault industrial insurance coverage for their employees with the State Fund. The amount of premium deposited into state Trust Funds will decrease as some employers obtain private industrial insurance coverage. However, the amount of premium that will shift to private insurers cannot be precisely estimated because the future competitive market is unknown. Therefore, the fiscal impact statement uses the following range of assumptions for the estimate:

A low range is calculated using State Fund 2010 premium rates. At this rate, premiums paid to private insurers and the assigned risk plan combined is estimated to be \$821 million in CY 2013 and \$1.1 billion in CY 2014. Therefore, premium paid into state Trust Funds is estimated at \$619 million in CY 2013 and \$828 million in CY 2014.

A higher range is calculated using State Fund premium at the 2010 actuarially estimated rate, which is increased for wage inflation at 2.5 percent and medical inflation at 5.5 percent. At this rate, premium paid to private insurers and the assigned risk plan combined is estimated to be \$1 billion in CY 2013 and \$1.43 billion in CY 2014. Therefore, premium deposited into state Trust Funds is estimated at \$805 million in CY 2013 and \$1.37 billion in CY 2014.

These estimates assume private insurers will collect sufficient premium to cover future cost of living adjustments to benefit levels.

Industrial Insurer License Fees

The private insurers who offer industrial insurance must be licensed by the Office of Insurance Commissioner (OIC). Using the following assumptions, OIC estimates state license fees will be less than \$11,000 in FY 2013 and \$8,250 each fiscal year thereafter, assuming a total of 320 insurers and 500 agents and brokers (producers) ultimately will be licensed to sell industrial insurance in Washington. Total state revenue from fees is estimated at \$27,500 over the next five fiscal years.

Industrial Insurer Assessments

The OIC must collect an assessment from private insurers sufficient to cover OIC's costs to administer its duties. The OIC estimates state assessments of \$3.3 million in FY 2013, \$3.6 million in FY 2014 and \$3.7 million in FY 2015 and each fiscal year thereafter to cover its costs. Funds must be deposited into a new industrial insurance administrative account. Because assessment increases are assumed to require legislative approval, revenue from assessments is assumed to be \$3.3 million each fiscal year for a total of \$9.9 million for three fiscal years.

Taxes on Insurers

Private industrial insurance premiums will be subject to the insurance premium tax. Insurance agent commissions will be subject to the business and occupation (B&O) tax. Both taxes are deposited into the State General Fund and can be used for any governmental purpose. Using the "Industrial Insurance Premiums" assumptions above and a 7.2 percent commission rate to brokers and agents (from Best's Aggregates & Averages 2007 nationwide average commission rate for industrial insurance), an estimated \$51 million to \$65 million will be deposited into the State General Fund from taxes on private insurers. The following table shows the range of revenue generated by tax type for each fiscal year: See page 13, Figure 1.

Approximately 38 cities and towns impose a local B&O tax. Because it is not known where private insurers will locate, the amount of revenue generated from local B&O tax is indeterminate.

State and Local Expenditure Assumptions

The amount of state expenditures for claims costs will correspondingly decrease along with premiums

paid into the Trust Fund. (See "Industrial Insurance Premiums" section in State and Local Revenue Assumptions above for estimate.) The initiative is assumed to have no impact on local government expenditures.

State and Local Cost Assumptions

Industrial Insurance Premiums

The initiative requires employers to pay the full cost of the Medical Aid premium. Under current law, the state deducts one-half of Medical Aid premium from state employee pay. This estimate assumes the same for all local governments covered by the State Fund. Assuming the number of full-time equivalent employees in CY 2009 and current 2010 Medical Aid premium rates, the estimated cost to the state is \$22 million and the estimated cost to the local governments is \$10.5 million in CY 2011 and each calendar year thereafter. Over five fiscal years, this estimate totals \$99 million in state costs and \$47.25 million in local government costs. This estimate assumes employers will continue to collect half of the Supplemental Pension Fund premium from employees.

Office of Insurance Commissioner (OIC) Administration

The OIC will assume costs for regulation of private insurers who offer industrial insurance, which will include licensing activities, financial examinations and oversight, analysis of rate filings, responding to consumer complaints, rule making, and legal and public affairs. State costs are estimated at \$186,200 for FY 2011, \$1.9 million for FY 2012, \$3.3 million for FY 2013, \$3.6 million for FY 2014 and \$3.7 million for FY 2015. Total estimated state costs are \$12,686,200 over the next five fiscal years. These state costs assume the following:

Private insurers will be subject to the regulatory requirements of Title 48 RCW involving admission, financial, solvency and market analysis oversight.

Private insurers will be subject to the unfair claims practices rules and statutes.

The initiative gives no authority to OIC to approve or deny manual rates adopted by a private rating organization. Variations from the manual rates will require OIC approval.

Private insurers will pay all costs and fees associated with the licensed rating organization selected to prepare rate-making documents.

Employers who purchase industrial insurance coverage from the assigned risk plan will pay all

costs associated with that plan.

Consumers who disagree with claims decisions made by private insurers will be able to file complaints with OIC.

The OIC cannot assess private insurers for Board of Industrial Insurance Appeals (BIIA) expenses.

No resources will be devoted to private industrial insurance fraud prevention, detection or prosecution.

No guaranty fund coverage will exist for insolvent private insurers. No costs are assumed for the state. Losses will be absorbed by employers, injured employees and medical providers.

Department of Labor and Industries (L&I) Administration

The initiative will generate state costs related to L&I activities that can be estimated as follows:

Costs estimated up to \$1.1 million for information technology changes, rule making and actuarial analysis to change the State Fund premium basis to total payroll by January 1, 2011.

Costs estimated up to \$16.5 million in FY 2012 for additional information technology changes for fraud detection, policy issuance and accounting systems.

Costs estimated to average \$317,000 annually over the next five fiscal years for staff to pursue fraud and employers who are not insured.

Costs estimated at \$5.94 million each fiscal year for the Employment Standards Program and Apprenticeship Program that can no longer be funded from the Trust Fund beginning FY 2013.

Because L&I has existing statutory authority to assess fees for the state's occupational safety and health program and the University of Washington's environmental research facility, no change in state revenue or state expenditures is assumed for maintaining the programs at current levels. However, state costs include \$412,000 in FY 2013, \$398,000 in FY 2014 and \$398,000 in FY 2015 for L&I to collect these fees. Total state costs are estimated at \$1,208,000 for three fiscal years.

Assuming no further legislative action to conform current statutes to the initiative, State Fund premiums and costs (State Fund and L&I) may increase, but the amount is indeterminate for the following reasons:

Current law requires the State Fund to provide coverage to all employers. If the State Fund is unable to deny coverage to certain employers who should be insured by the assigned risk plan, premiums and costs will increase.

Current law requires the State Fund to cover claims of employees whose employers did not obtain industrial insurance through the State Fund, self-insurance or a private industrial insurer. As employers shift to private insurers, this cost may change.

Although employers insured through the State Fund will decrease, additional administrative costs may be necessary for the State Fund to compete with private insurers.

L&I may have costs or savings related to changes in rate development, premium collection practices and policy issuance activities.

Board of Industrial Insurance Appeals Administration

Employers and employees covered by private industrial insurers have appeal rights to the BIIA. BIIA estimates a 34 percent increase in appeals based on the ratio of appeals to claims for private insurers as compared to the same ratio for the Oregon SAIF state-chartered workers compensation company over a three-year period. Additionally, appeals of private insurers' decisions are assumed to be a state cost because OIC cannot assess private insurers for BIIA expenses. State costs estimated for appeals and case management changes are estimated at \$705,000 in FY 2012, \$7.7 million in FY 2013, and \$10 million in FY 2014 and \$10 million in FY 2015. Total state costs are estimated at \$28,422,000 for four fiscal years.

The Department of Revenue Administration

Assuming most agents and brokers (producers) who will be licensed to sell industrial insurance are currently reporting taxpayers, state costs of up to \$50,000 are estimated for the Department of Revenue to administer the B&O taxes. Total state costs are estimated at \$150,000 over the next five fiscal years.

Joint Legislative Task Force

The initiative creates a joint legislative task force on private competition for industrial insurance for the purpose of developing proposed legislation to conform current statutes to the provisions of the initiative. The task force expires on December 31, 2012. The Legislature assumes no additional costs for the task force. Assuming that L&I is tasked to provide actuarial, policy and technical assistance to the task force, state costs are estimated at \$345,000 for FY 2011, \$571,000 for FY 2012 and \$289,000 for FY 2013, for a total of \$1,205,000.

Figure 1 Revenue Ranges by Tax Type

Fiscal Year	2011	2012	2013	2014	2015
Insurance Premium Tax	\$0	\$0	\$8,211,000 – \$10,700,000	\$19,430,000 – \$24,370,000	\$22,440,000 – \$28,600,000
Business and Occupation Tax	\$0	\$0	\$262,000 – \$322,000	\$327,000 – \$410,000	\$391,000 – \$498,000
Total State General Fund Revenue	\$0	\$0	\$8,473,000 – \$11,022,000	\$19,757,000 – \$24,780,000	\$22,831,000 – \$29,098,000

Argument For Initiative Measure 1082

L&I's Workers Compensation Monopoly is Hurting Our Economy...
...by killing jobs and failing workers. L&I taxes are going up every year with no end in sight. Injured workers stay off work longer here than anywhere else. L&I is inefficient and unaccountable because it is a government monopoly. It doesn't have to compete for your tax dollars.

I-1082 Provides More Choices...

...by ending L&I's monopoly and allowing companies to sell workers' compensation insurance in Washington, with oversight by our Legislature and consumer protection regulations. Just like what works in 46 other states.

I-1082 Provides Tax Relief to Working Families...

...at a time when they need it the most. Washington is the only state where workers pay L&I taxes, up to \$315 million in 2010. I-1082 ends the tax on workers in favor of a competitive system that will lower costs for everyone. Even picking up the workers' share, employers know competition will ultimately save them money. Like it has in Oregon. Their competitive system hasn't had a tax increase in 20 years. But taxes here have gone up 53% since 2000 and are expected to skyrocket again next year.

What are they Afraid of?

I-1082 doesn't reduce benefits. It provides choices. So why are union bosses and personal injury lawyers spending millions against it? It's simple. They are terrified to lose their political and financial grip on L&I. The status quo works – for *them*. Don't fall for their exaggerations and fear-mongering.

Vote yes on I-1082. Let's get Washington back to work.

Rebuttal of Argument Against

I-1082 was written by small business groups fed up with the state's failing workers' compensation monopoly.

There are no special exemptions for insurance companies. *Read the initiative: nothing* in I-1082 exempts anyone from consumer protection laws or insurance regulations – the state will fully regulate all insurers.

Injured workers will be protected by the same laws and entitled to the same benefits as they are today.

I-1082 simply ends the state's monopoly and gives employers choices.

Argument Prepared by

Patrick Connor, State Director, NFIB/Washington, Olympia; **Betty Neighbors**, owner, TERRA Staffing Group, Everett; **Joel Kretz**, State Representative and owner, Promised Land Ranch, Wacounda; **Steve Robinson**, Spokane Rock Products/AWB Board member, Spokane; **Mark Shaffer**, owner, Mark's Drywall, Lacey; **Mike Gilmartin**, Commercial Creamery Company, Spokane.

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Argument Against Initiative Measure 1082

No I-1082: Written and Sponsored by the Insurance Industry

I-1082 was written by the private insurance industry, which will spend millions trying to pass this initiative so they can unfairly profit from Washington's workers' compensation.

According to Insurance Commissioner Mike Kreidler, the insurance industry wrote I-1082 to give themselves special exemptions that no other line of insurance is allowed – not car, home, life or health insurance.

No I-1082: Read the Fine Print

Allows private insurers to set their own rates with virtually no oversight.

Exempts workers' compensation insurers from the voter-approved Insurance Fair Conduct Act, meaning workers' compensation insurers can wrongfully and intentionally delay and deny legitimate claims for years and there's virtually no way to hold them accountable.

Won't protect businesses, workers or doctors if an insurance company suddenly declares bankruptcy.

No I-1082: The wrong solution for Washington

Washington's workers' compensation system is there when you and your family need it. If you're injured on the job, workers' compensation allows you to seek prompt and appropriate care, pays your doctor bills and provides some income until you can work again. It can also provide job retraining if your injury prevents you from returning to your previous line of work.

I-1082 is especially tough on small businesses, which would be left to pay skyrocketing rates after insurance companies had cherry-picked large and less risky businesses.

No oversight. No regulation. No accountability.

Vote no on I-1082: It's for the insurance industry. Not for you.

Rebuttal of Argument For

Please read the fine print before you buy this insurance industry sales pitch. I-1082 will increase costs for small businesses – \$315 million according to 1082's industry backers – new costs that small employers can't afford in this tough economy. All of us pay: the state Office of Financial Management says 1082 costs taxpayers \$250 million. Insurance Commissioner Kreidler confirms that 1082's hidden provisions gut consumer protections and won't hold insurance companies accountable. *Vote no.*

Argument Prepared by

Mike Kreidler, Washington State Insurance Commissioner; **Brian Sonntag**, Washington State Auditor; **Don Orange**, owner, Hoesly ECO Auto/Tire, Vancouver; **Don Grillo**, Business manager, International Brotherhood of Electrical Workers 77; **Judy Huntington**, MN, RN, Executive Director, Washington State Nurses; **Kelly Fox**, President, Washington State Council of Fire Fighters.

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Complete Text

Initiative Measure 1082

AN ACT Relating to industrial insurance reform through privatization and competition; amending RCW 51.14.010 and 51.16.140; adding a new section to chapter 51.28 RCW; adding new sections to chapter 51.44 RCW; adding a new section to chapter 51.52 RCW; adding a new chapter to Title 48 RCW; creating new sections; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. The people find that forty-six other states have used competition to maximize efficiency in their worker compensation programs. Private sector competition in providing worker compensation coverage has been effective in improving injured worker outcomes while reducing premium costs for employers. Competition has also improved program efficiency and created financial incentives to create innovative safety programs that protect all workers. Therefore, the purposes of this act are to:

- (1) Maintain the existing benefit levels to which injured workers are entitled under existing law while at the same time improving their opportunity to return to work;
- (2) As a result of private sector competition in providing worker compensation coverage, eliminate the requirement that workers in Washington pay one-half of their medical coverage for injuries on the job;
- (3) Create an efficient and cost-effective industrial insurance system for the benefit of both employers and workers by introducing competition into the system through a choice of insurance providers from whom employers may purchase industrial insurance;
- (4) Provide workers the benefit of safety systems developed by both the private sector and by government;
- (5) Improve the state's economic climate by providing the private sector with the opportunity to engage in the industrial insurance business with appropriate standards and oversight;
- (6) Eliminate state government's monopoly with respect to industrial insurance by providing employers choices for purchasing industrial insurance coverage.

NEW SECTION. Sec. 2. (1) For the purposes of this chapter, the term "industrial insurance insurer" includes an insurer authorized to insure the liabilities defined by Title 51 RCW but does not include any entity providing industrial insurance coverage in accordance with RCW 51.14.010 (1) or (2) or the state fund.

(2) The commissioner shall issue a certificate of authority to be an industrial insurance insurer if the insurer meets the requirements to be licensed to sell insurance in this state and meets the applicable provisions of this title and Title 51 RCW. The commissioner shall perform all duties required under this title to ensure that each industrial insurance insurer continues to meet the requirements of the applicable provisions of this title and Title 51 RCW.

(3) The commissioner shall designate a licensed rating organization to file with the commissioner, for approval, a manual of classifications and rules, rating plans, policy forms

and provisions, and a statistical plan which will provide data adequate for rate making. Every industrial insurance insurer must be a member of the licensed rating organization designated by the commissioner and must adhere to the approved filings required by this section.

(4) The licensed rating organization shall file manual rates with the commissioner. Such rates shall not require commissioner preapproval prior to use. Any member of the rating organization may make written application to the commissioner for approval of uniform percentage deviations from the manual rates filed by the rating organization.

(5) The department of labor and industries division of industrial insurance shall make available to the licensed rating organization designated by the commissioner the accident and loss experience records for the periods before the effective date of this section. The division of industrial insurance shall be reimbursed by such organization for the actual reasonable cost of reproduction and delivery of the records and data.

(6) The commissioner shall establish an assigned risk plan for all industrial insurance insurers.

(7) This chapter does not prohibit or regulate the payment of dividends and savings on unabsorbed premium deposits allowed or returned by industrial insurance insurers to their policyholders, groups, members, or subscribers. A plan that is designed to return dividends, savings on unabsorbed premium by industrial insurance insurers to their policyholders, groups, members, or subscribers is not a rating plan or system.

(8) The commissioner shall adopt rules under chapter 34.05 RCW to implement this section.

NEW SECTION. Sec. 3. Each industrial insurance insurer offering to sell industrial insurance shall hold a certificate of authority issued by the insurance commissioner under chapter 48.05 RCW permitting it to provide industrial insurance. Before issuing the certificate, the commissioner shall certify that such an industrial insurance insurer has the capacity to provide for the benefits to which injured workers are entitled, adequate safety engineering, loss prevention, and claims management services for all employers the industrial insurance insurer insures. Such a certificate is not valid if the industrial insurance insurer fails to maintain (1) a location within the state where applications for industrial insurance benefits may be made and maintained with the commissioner and (2) a list of the locations and telephone numbers where information may be obtained about all appropriate matters relating to claims.

NEW SECTION. Sec. 4. A new section is added to chapter 51.28 RCW to read as follows:

(1) The industrial insurance insurer shall notify the employer and the injured worker:

(a) Of its decision whether or not to pay industrial insurance benefits for any application for industrial insurance benefits within five days of making a decision;

(b) Each time the industrial insurance insurer makes a decision to pay industrial insurance benefits pursuant to chapter 51.32 RCW; and

(c) At intervals not to exceed thirty calendar days, of any medical services approved or authorized under chapter 51.36 RCW.

(2) Each notice under this section must include an explanation, in nontechnical language, of the potential impacts of the decision on the injured worker, the industrial insurance rates of the employer, and the injured worker's and/or employer's right to appeal the decision. The sixty-day requirement to request reconsideration or appeal a decision does not begin until the notice has been sent to the employer and injured worker.

NEW SECTION. Sec. 5. A new section is added to chapter 51.44 RCW to read as follows:

A revolving fund to be known and designated as the industrial insurance administrative fund is created in the state treasury. The insurance commissioner shall administer the fund. The fund is established to provide for the payment of all expenses of the board of industrial insurance appeals and the insurance commissioner with respect to the administration of their respective duties under this title and chapter 48.-- RCW (the new chapter created in section 14 of this act). There must be separate appropriations for the board and the insurance commissioner. Any money appropriated from the general fund for the uses and purposes of the administrative fund must be placed in the administrative fund.

NEW SECTION. Sec. 6. A new section is added to chapter 51.44 RCW to read as follows:

(1) The insurance commissioner shall periodically calculate and collect from industrial insurance insurers assessments that, with the interest earned, are sufficient to cover the administrative costs of the commissioner to administer sections 2 and 3 of this act. The time and manner of collecting assessments must be set forth in rules adopted by the commissioner under chapter 34.05 RCW.

(2) The commissioner shall prepare, as soon as is practicable after July 1st each year, a line item budget for the industrial insurance administrative fund for the succeeding fiscal year. The budget must be based upon the actual expenditures of the preceding fiscal year and a reasonable estimate of expenses for the succeeding year.

(3) The assessment of each industrial insurance insurer must be an amount bearing the same ratio to the total administrative costs that each industrial insurance insurer's adjusted premium bears to the aggregated adjusted premium of all industrial insurance insurers. As used in this subsection "adjusted premium" means the direct earned premium for industrial insurance under this title, determined under uniform rules adopted by the insurance commissioner.

(4) The assessment for each industrial insurance insurer must be calculated in the following manner:

(a) The assessment for each industrial insurance insurer must be based on the adjusted premium for the period immediately preceding the period to which the assessment will apply.

(b) The periodic assessment must be adjusted after each fiscal year to reflect the actual adjusted premium of each industrial insurance insurer for that fiscal year, as determined by the commissioner.

(c) Notwithstanding any provision of this section, each industrial insurance insurer may be assessed annually a minimum amount not to exceed five hundred dollars, as determined by the commissioner.

(5) Assessments are payable in full within thirty days of the notice of assessment. If any industrial insurance insurer fails to pay the assessment by the date due, interest may be charged on all past due amounts at a reasonable market rate as may be established from time to time by the commissioner by rule.

(6) In no event may any assessment made under this section exceed four percent per annum of the total taxable industrial insurance premiums in this state for the year immediately preceding the assessment.

NEW SECTION. Sec. 7. A new section is added to chapter 51.44 RCW to read as follows:

Plans offered by industrial insurance insurers to groups of employers must meet the following criteria:

(1) All the employers in the group are members of an organization that has been in existence for at least four years;

(2) The organization exists primarily for a purpose other than that of obtaining or offering industrial insurance coverage or insurance-related services;

(3) The group must be composed of employers who are substantially similar considering the services or activities performed by the employees of those employers; and

(4) The formation and operation of the group program in the organization will improve accident prevention and claims management for the employers in the group.

Sec. 8. RCW 51.14.010 and 1971 ex.s. c 289 s 26 are each amended to read as follows:

Every employer under this title shall secure the payment of compensation under this title by:

(1) Insuring and keeping insured the payment of such benefits with the state fund; ~~(or)~~

(2) Qualifying as a self-insurer under this title; or

(3) Insuring and keeping insured the payment of compensation, individually or as part of a group of employers, with an industrial insurance insurer meeting the requirements of section 2 of this act.

Sec. 9. RCW 51.16.140 and 1989 c 385 s 3 are each amended to read as follows:

~~((1) Every employer who is not a self insurer shall deduct from the pay of each of his or her workers one-half of the amount he or she is required to pay, for medical benefits within each risk classification. Such amount shall be periodically determined by the director and reported by him or her to all employers under this title: PROVIDED, That the state governmental unit shall pay the entire amount into the medical aid fund for volunteers, as defined in RCW 51.12.035, and the state apprenticeship council shall pay the entire amount into the medical aid fund for registered apprentices or trainees, for the purposes of RCW 51.12.130. The deduction under this section is not authorized for premiums assessed under RCW 51.16.210.~~

~~—(2))~~ It shall be unlawful for the employer, unless specifically authorized by this title, to deduct or obtain any part of the premium or other costs required to be by him or her paid from the wages or earnings of any of his or her workers, and the making of or attempt to make any such deduction shall be a gross misdemeanor.

NEW SECTION. Sec. 10. A new section is added to

chapter 51.52 RCW to read as follows:

With respect to the rights and responsibilities of the department under this chapter, an industrial insurance insurer shall have the same rights and responsibilities under that chapter as does the department.

NEW SECTION. Sec. 11. Industrial insurance insurers who obtain a certificate of authority as provided in sections 2 and 3 of this act and provide coverage for industrial insurance benefits must provide benefits as set forth in chapters 51.32 and 51.36 RCW. Such industrial insurance insurers shall administer claims for benefits under chapter 51.32 RCW without involvement by the department, subject to the right to appeal any such claim decisions to the board and the courts pursuant to chapter 51.52 RCW.

NEW SECTION. Sec. 12. The exposure medium used by each carrier, self-insurer, or state fund to price their insurance product shall be based upon total payroll and will not be subject to any payroll limitation.

NEW SECTION. Sec. 13. (1) The joint legislative task force on private competition for industrial insurance is established. The task force shall consist of the following members appointed by the lieutenant governor:

- (a) One member from the house of representatives;
- (b) One member from the senate; and
- (c) The following members:
 - (i) Four members representing employers. At least one of the members must be from an employer with less than twenty employees, at least one of the members must represent an association with a retrospective rating program, and at least one of the members must be from a self-insured employer under Title 51 RCW;
 - (ii) Two members representing industrial insurance insurers; and
 - (iii) Four members representing employees. One member must be an employee of a self-insured employer and at least one member must be employed by an employer with fewer than twenty employees.

(2) The task force shall work with the commissioner and the department of labor and industries to develop proposed legislation to conform current statutes to the provisions of this act. The task force must provide its recommendations to the legislature by December 1, 2011.

(3) The task force shall expire upon completion of recommendations and transition of Washington's industrial insurance to a competitive market, but no later than December 31, 2012.

(4) No later than March 1, 2012, the legislature shall adopt such supplemental legislation as may be necessary to fully implement the policy directives of this act.

NEW SECTION. Sec. 14. Sections 2, 3, 11, and 12 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 15. Sections 7 and 8 of this act take effect July 1, 2012.

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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Complete Text Initiative Measure 1098

AN ACT Relating to education, health care, and fiscal reform; adding a new section to chapter 82.04 RCW; amending RCW 82.04.4451; adding a new chapter to Title 82 RCW; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

PART I GENERAL PROVISIONS

NEW SECTION. Sec. 101. INTENT. It is the intent of the people to create a new trust fund dedicated to improving education and health services and providing middle class tax relief by reducing the state property tax by twenty percent and eliminating the business and occupation tax for all small businesses, to be funded by an excise tax on joint income in excess of \$400,000, or in the case of individuals \$200,000.

PART II ESTABLISHING A NEW TRUST FUND DEDICATED TO EDUCATION AND HEALTH SERVICES AND MIDDLE CLASS TAX RELIEF, FUNDED BY AN EXCISE TAX ON JOINT INCOMES IN EXCESS OF \$400,000 (\$200,000 FOR INDIVIDUALS)

NEW SECTION. Sec. 201. (1) A new state trust fund is hereby established dedicated to funding education and health services and middle class tax relief. The trust is known and cited as the education, health services, and middle class tax relief trust and is funded by the excise tax on joint incomes in excess of \$400,000 (\$200,000 for individuals) imposed under this chapter.

(2) Net revenue received by the trust must be devoted to education and health services. Seventy percent of the net revenues received by the trust must be deposited into the education legacy trust account and used exclusively for the purposes of that account. Thirty percent of the net revenues received by the trust must be used exclusively to supplement amounts available to fund the basic health plan under chapter 70.47 RCW, to provide for costs of state and local public health services, and to provide for long-term care services for seniors and people with disabilities under chapter 74.39A RCW and other health services. Net revenue is that revenue received by the trust in excess of that necessary to fund the middle class tax relief adopted in Part III of this act.

(3) Before computing or spending net revenue, the state treasurer must each year certify the revenue that would have been deposited in the general fund but for the middle class tax relief adopted in Part III of this act, and must make such deposits as are necessary to replace the revenue eliminated by such middle class tax relief.

NEW SECTION. Sec. 202. The office of financial management must prepare an annual report summarizing how funds deposited in the trust have been spent and estimating the number of state residents benefited. Monthly disclosure of tax collection and spending under this chapter