

RCW 51.16.120 Distribution of further accident cost. (1)

Whenever a worker has a previous bodily disability from any previous injury or disease, whether known or unknown to the employer, and suffers a further disability from injury or occupational disease in employment covered by this title and becomes totally and permanently disabled from the combined effects thereof or dies when death was substantially accelerated by the combined effects thereof, then the experience record of an employer insured with the state fund at the time of the further injury or disease must be charged and a self-insured employer must pay directly into the reserve fund only the accident cost which would have resulted solely from the further injury or disease, had there been no preexisting disability, and which accident cost must be based upon an evaluation of the disability by medical experts. The difference between the charge thus assessed to such employer at the time of the further injury or disease and the total cost of the pension reserve must be assessed against the second injury fund. Except as provided in subsection (2) of this section, the department must pass upon the application of this section in all cases where benefits are paid for total permanent disability or death and issue an order thereon appealable by the employer. Pending outcome of such appeal the transfer or payment must be made as required by such order.

(2) If a self-insured employer is in default or the director has withdrawn the certification of a self-insured employer, the department may not pass on the application of this section. In such cases, the total cost of the pension reserve must first be assessed against the defaulting self-insured employer's deposit required by RCW 51.14.020 and in cases where the surety funds are insufficient the remaining cost of the pension reserve must be assessed against the insolvency trust fund.

(3) The department must, in cases of claims of workers sustaining injuries or occupational diseases in the employ of state fund employers, recompute the experience record of such employers when the claims of workers injured in their employ have been found to qualify for payments from the second injury fund after the regular time for computation of such experience records and the department may make appropriate adjustments in such cases including cash refunds or credits to such employers.

(4) To encourage employment of injured workers who have a developmental disability as defined in RCW 71A.10.020, the department may adopt rules providing for the reduction or elimination of premiums or assessments from employers of such workers and may also adopt rules for the reduction or elimination of charges against their employers in the event of further injury to such workers in their employ. [2015 c 137 § 1; 2010 c 213 § 1; 2004 c 258 § 1; 1984 c 63 § 1; 1980 c 14 § 7. Prior: 1977 ex.s. c 350 § 28; 1977 ex.s. c 323 § 13; 1972 ex.s. c 43 § 13; 1961 c 23 § 51.16.120; prior: 1959 c 308 § 16; 1945 c 219 § 1; 1943 c 16 § 1; Rem. Supp. 1945 § 7676-1a.]

Application—2015 c 137 §§ 1, 2, and 6: "Sections 1, 2, and 6 of this act apply to all workers' compensation claims that are open on or after January 1, 2016, without regard to the date of injury or occupational disease manifestation." [2015 c 137 § 9.]

Rules—2015 c 137: See note following RCW 51.32.096.

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.