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L&I's Latest Financials Show Reform Still Needed

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In Brief:

- L&I's unexpected investment gains added $373 million to the workers' comp reserve over the last two quarters
- Instead of being short by $1.1 billion, L&I is now short about $720 million
- The state AFL-CIO took to the air to say the financial news means workers' comp fixes are unnecessary
- The shortfall is bridged either with increased tax rates or reduced liabilities
- ESSB 5127's projected savings from expanded settlement eligibility can recover most or all of the reserve deficit without resorting to tax increases

Some welcome news

Last week, Labor & Industries shared some good news about our workers' comp system from the first two quarters of the current fiscal year:

- L&I offset $69 million in workers' comp losses with unexpected investment income, posting net income of $250 million.
- Combining net income with unrealized gains on investment holdings, L&I's contingency reserve – the ratio of its assets to liabilities – increased $373 million from $580 million on June 30, 2012 to $953 million on December 31, 2012.

ESSB 5127 will avoid tax hikes

The Washington State Labor Council seized upon this welcome news to argue that further legislative improvement to the workers' comp system is unnecessary. Specifically, Labor hopes to defeat employers' push for ESSB 5127 in the coming special session. ESSB 5127, passed by the Senate with a strong bipartisan vote, saves workers' comp costs by modestly expanding eligibility for structured settlements and clarifying legislative intent about approving settlements where attorneys are involved.

The primary case for ESSB 5127 is focused on L&I's ten year plan to hike workers' comp tax rates to recover a deficit in its contingency reserve. Last summer, when the plan was announced, the deficit stood at roughly $1.1 billion. That meant ten years of $110 million average annual rate surcharges.

L&I cannot speculate on the stock market or book future investment gains that haven't and may never happen. So when setting premium tax rates, the Department can grow its reserve not only through increased revenue, but also through anticipated savings in claim costs and long term liabilities from legislative reforms.

According to L&I's fiscal note for ESSB 5127, a mid-range estimate for cost savings from the bill would be a one-time $232 million savings on existing claims and $90 million in near-term annual savings from new claims. The combined savings of this bill in just three years is estimated at nearly half a billion dollars.

In other words, despite its modest changes to the structured settlement program, ESSB 5127 would substantially, or perhaps entirely, mitigate the need for high annual tax surcharges to recover the contingency reserve.

L&I's report last week didn't eliminate the need for legislation. It showed that instead of being short $1.1 billion, the difference between where the reserve currently sits ($953 million) and what L&I targets ($1.673 billion) is now closer to $720 million.

L&I still needs to bridge this substantial gap. Whether it happens from tax increases or reforms will be up to the Legislature and the Governor this coming special session.