



A weekly report from the Washington State Labor Council, AFL-CIO

Legislative UPDATE



FEB. 12, 2007

Vol. XXII, No. 5

Sure and certain relief

The workers' compensation system is hard for many of us to understand. Let's face it, few people pay it much attention because nobody expects to be injured at work. But when we do get injured, we count on that safety net being there so we can continue to provide for our families. That's why Washington's working families are so fortunate to have a Workers' Compensation Caucus of labor experts and other advocates for injured workers who track every legislative proposal in this area. The Caucus judges each bill by the standard set forth in RCW 51.04.010: Does it promote "sure and certain relief for workers, injured in their work, and their families and dependents?"

As always, this year there are quite a few bills affecting the workers' compensation system, and one of the most important involves vocational rehabilitation. For about 20 years now, our state has been trying to fix our voc-rehab system, which everyone agrees isn't effectively achieving its goal of returning injured workers to employability. This year, for the first time, business and labor have reached agreement on what to do—although it required both sides to take huge issues off the table. HB 2073 authorizes a 5-year pilot program that will give us far more information on what works and what doesn't.

While labor continues to have serious issues involving the current "employability" standard—which costs injured workers their benefits when they can do minimum-wage work, and which is not addressed in the bill—the Washington State Labor Council supports HB 2073. Other bills that the Workers' Compensation Caucus supports include:

- HB 1244 and SB 5241, making sure that employee contributions to their own hour banks do not end up barring them from receiving the value of health care contributions should the employer not make contributions after they are injured.
- HB 1503 deals with another long-term problem: employer use of Independent Medical Exams to bypass the expertise of attending physicians or other qualified physicians. The bill gives injured workers' physicians the opportunity to refer their patients to other physicians before an IME, requires requests to the attending physician to deal with the subject of an IME, and addresses qualifications for who can perform IMEs.

One workers' compensation bill the WSLC opposes is SB 5290, which passed from committee and is now in Senate Rules. It would establish Medical and Chiropractic Advisory Committees to advise the Department of Labor and Industries. The bill's

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two main problems: 1) It doesn't address problems that arose last time this was attempted, a concern shared by the Washington State Medical Association. Nor would these committees have business and labor representatives, who could help resolve such problems as they arise. As WSMA stated, having business and labor representatives could "keep the advisory committee and L&I focused on the issues at hand." 2) The committees' members are not chosen the same way the other L&I statutory advisory committees are chosen. Normally, the stakeholder groups submit names and L&I must choose from that list. But in SB 5290, they merely take that list into consideration. WSLC opposition would become support with amendments fixing these two problems.

Improve initiative accountability, transparency

When our state's founders established a public initiative process to give people the ability to petition for state action, they couldn't have envisioned the initiative industry of today. They certainly wouldn't have imagined hucksters in gorilla suits hawking everything from painless tax cuts to restrictions on who can be married.

Nothing sends today's initiative profiteers into apoplectic fits quite like legislative attempts to regulate "their" initiative process. These are people whose livelihoods depend on their ability to inspire public outrage about... whatever... and to foster cynical, paranoid distrust of government. So when "govement" butts into their business, you just have to expect a certain amount of spittle on the hearing room microphones.

The WSLC has supported many initiatives and coordinated signature gathering for a few, including our state's groundbreaking minimum wage initiative in 1998. We have no interest in making it harder to get legitimate ballot measures before voters

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or creating needless hurdles to participate in that process. That said, the WSLC supports some common-sense measures that will strengthen the initiative process by improving transparency and accountability.

■ HB 2018 calls for the licensing of paid signature gathering firms, plus permitting and training of paid signature gatherers.

People in gorilla suits (and their sponsors) who oppose any regulation of the initiative industry like to point out that there has never been a case of petition fraud prosecuted in Washington state, as if that means there is no fraud. The problem is that there is no way to track and prosecute itinerant paid petitioners who sometimes travel from state to state collecting signatures for a living. There are hundreds of petitions filed every year that have duplicated names, invalid signatures or people who don't exist. Are we to believe those are all "accidental" when people are getting paid?

HB 2018, coupled with HB 2019, will establish some accountability for petitions which have intentionally been falsified with fake signatures or duplicated names. Legitimate, honest petitioners and signature-gathering firms have nothing to fear from permitting and a little training.

■ HB 2019 clarifies a law passed last year that requires signature gatherers, paid or not, to sign a declaration on the back of the petition attesting that the signatures on the petition are those of registered voters.

Last year's Initiative 917, Tim Eyman's latest \$30 car tab measure, failed to qualify for the ballot because of an extraordinarily number of invalid signatures. In addition, some, but not all of I-917 petitions lacked the required declaration. Overall, I-917 had a "duplicate rate" of 4.0%, but the petitions with no signed declaration had a duplicate rate of 5.1%, and petitions with illegible declarations had a duplicate rate of 6.0%.

Having petitioners sign this declaration reminds them of their responsibilities under the law and discourages fraud.

■ HB 2047 would change the reporting schedule for initiative campaigns during the signature-gathering phase providing more financial disclosure to voters. Between January and July 2006, more than \$3.1 million was raised by initiative campaigns in Washington. But the \$1.1 million raised in the month of June alone was not reported until after the early-July signature deadline, making it impossible to know where last-minute contributions to pay for signatures were coming from.

Hearing set for Taxpayer Healthcare Fairness Act

HB 2094, the Washington Taxpayer Healthcare Fairness Act sponsored by Rep. Steve Conway (D-Tacoma), will be heard Tuesday at 1:30 p.m. in the House Commerce and Labor Committee. SB 5977, its companion bill sponsored by Sen. Jeanne Kohl-Welles (D-Seattle), will be heard the same day and time in Senate Labor and Commerce.

Like last year's Fair Share Health Care bill, the intent of

this new legislation is to discourage employer "cost-shifting" onto taxpayers. But rather than create a threshold percentage of payroll costs that must go toward providing health coverage, the Taxpayer Healthcare Fairness Act would just require employers to reimburse the state for the costs of their workers on tax-funded health plans. To protect working people enrolled in the Medicaid or Basic Health programs, HB 2094 would also make it illegal for employers to discriminate against enrollees by, for example, firing them to avoid reimbursing the state.

Let's close the PEO loophole

Professional Employee Organizations provide services normally associated with a company's human resources department: payroll administration, medical benefits, retirement plans, workers' compensation and unemployment insurance, and more. Mostly small to mid-size businesses hire PEOs to essentially become "co-employers" and lease employees from them.

The upside is that the arrangement can save businesses money on administrative tasks and help them afford employee benefits they couldn't otherwise offer. The potential downsides for workers are many, not the least of which is that a PEO's assumption of employer responsibilities can jeopardize workers' rights under the Fair Labor Standards Act, Family and Medical Leave Act, and other important statutes.

Another downside is that client businesses have used PEOs to manipulate their experience ratings and avoid paying the unemployment and workers' compensation taxes they should pay. Employers with high rates of work injury or layoff can dodge paying their taxes simply by hiring a PEO with a lower rating.

SB 5373 is designed to help cut down on fraud and excess socialized costs. It would also close a PEO loophole by requiring their clients to maintain their own experience ratings. The WSLC supports SB 5373 and urges its passage.

Some hearings next week

TUESDAY, Feb. 13 @ 1:30 p.m.: House Commerce and Labor hears the Washington Taxpayer Healthcare Fairness Act (see above), HB 1693 modifying time periods for collective bargaining by state ferry employees, HB 1913 certifying an employee organization for the purposes of state collective bargaining, and HB 1916 applying interest arbitration to certain care providers. TUESDAY @ 1:30 p.m.:

WEDNESDAY, Feb. 14 @ 8 a.m.: House Higher Education hears several bills related to pay, benefits and full-time opportunities for community and technical college faculty.

THURSDAY, Feb. 15 @ 8 a.m.: House Commerce and Labor hears several workers' compensation bills (see above). THURSDAY @ 1:30 p.m.: Senate Labor and Commerce hears several workers' compensation bills (see above).

FRIDAY, Feb. 16 @ 1:30 p.m.: House Commerce and Labor hears bills on apprenticeship utilization standards, prevailing wage standards and mechanic certification.