



WSLC Legislative Update

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



The difference between right and wrong

Worker Privacy Act simple but profound

By now, legislators have had a fair amount of constituent contact regarding the Worker Privacy Act, HB 1528 and SB 5446, either thanking them for sponsoring it, encouraging them to vote for it, or in opposition to it. Supporters believe workers shouldn't be forced, under threat of losing their jobs, to listen to their bosses tell them how to worship or how to vote. Opponents say it violates employers' First Amendment rights, or it's in conflict with federal labor law, or that employers never do that anyway.

The Worker Privacy Act is very simple but also quite profound. It extends a worker's First Amendment rights to the workplace by simply allowing a worker to not listen to the views of their employer on issues of individual conscience: politics, religion, union organizing and charitable giving. Compelling committee hearing testimony by workers was presented on each of these topics, which revealed the magnitude and frequency of the problem.

Clearing the air, it is important to recognize that existing law is very clear that employers are entitled to and are free to express their views to their employees on any topic they wish. The Worker Privacy Act does not change this.

But it is equally important to understand that there is no basis in law or the Constitution that suggests that employers have some over-arching right to force their views on employees or that this right is guaranteed by the First Amendment or by federal labor law. Mandatory workplace communication on job performance, how to make a better widget, health and safety, training, anti-discrimination/harassment training makes perfect sense. But forcing workers to attend meetings, listen to, or respond to communications on issues of individual conscience on pain of discharge or discipline does not make sense and is not right.

Health care: Hold the line, look to the future

With the imminent passage of the federal stimulus package, help is on the way. But it will only mitigate the impact of

this global economic meltdown on Washington families and communities in crisis. And one of the biggest sources of crisis for families is the lack of health care coverage.

The Washington State Labor Council believes the State Legislature can and should take steps to mitigate this family health care crisis by taking these actions this session:

HOLD THE LINE: Additional federal matching dollars for Medicaid should be used for preservation of the health care safety net and not to supplant spending for other state programs. In other words, don't cut the Basic Health Plan, public health and children's health programs, long-term care, mental health or family planning.

SEIZE THE DAY: Require the state to seek a waiver to expand Medicaid coverage. Without it, the state only gets federal matching dollars to cover adults with incomes below 80-90% of the Federal Poverty Level. With the waiver, we could expand coverage to adults up to 200% of the FPL.

LOOK TO THE FUTURE: Pass legislation that establishes the goal of state government to work in cooperation with the federal government to achieve secure, quality, affordable health care for all Washingtonians by the end of 2012.

The Healthy Washington Coalition, a collection of unions, businesses, health care providers, consumer groups and others who support these goals, has scheduled a Lobby Day for Wednesday, March 11. The Washington State Labor Council encourages all to attend. If you plan to be there, please contact the WSLC at 1-800-542-0904 and RSVP with your name and legislative district. We'll pass the info on to the Coalition.

With U.I. tax changes, let's "Restore to 4!"

On Thursday, the State Senate voted 43-4 to approve HB 1906, the Unemployment Insurance economic stimulus bill, which temporarily boosts the minimum weekly benefit from \$129 to \$155 and raises benefits for all recipients by another

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\$45 per week. The House is expected to approve it (again) today and Gov. Chris Gregoire is slated to sign it on Monday.

Now the discussion turns to proposals to change the way employers are taxed. But first, a little history...

For decades, our state calculated U.I. benefits using two-quarter averaging and a 4.0 multiplier. That means the weekly benefit was 4% of the average of a worker's two highest-earning quarters. In 2003, the legislature changed the formula to three-quarter, and then, four-quarter averaging beginning in 2005. As a consequence, workers' weekly benefits dropped significantly: between 2004 and the first quarter of 2005, the overall loss in worker benefits is estimated to be \$75 million.

In 2005, the legislature reversed some losses by restoring two-quarter averaging, but also reduced the multiplier to 3.85. For a worker earning \$30,000 a year (\$7,500 per quarter), the multiplier change cut weekly benefits from \$300 to \$288.75.

Now, the legislature is considering a proposal to make permanent structural changes to the tax system that will significantly downsize the U.I. Trust Fund. So now would also be the appropriate time to restore the benefit multiplier to 4.0, permanently. This would raise benefits \$8 to \$19 per week. We propose restoring it to 4.0 on Jan. 1, 2010, to correspond with the permanent changes to the U.I. tax structure.

In addition, legislators should restore full "quit to follow" spouse benefits so workers can go where the jobs are while keeping their families intact; remove restrictions on seeking part-time work while receiving benefits, which will qualify our state for \$94 million in Reed Act dollars when the 2009 Congress passes the U.I. Modernization Act; and preserve the Supreme Court's Spain-Batey decision granting the Employment Security Department greater discretion in determining "good cause" for quitting a job and still receiving benefits.

Retro snafus aside, worker' comp is a bargain

This week brought disturbing news about a computer glitch siphoning \$10-15 million a year in workers' compensation overpayments to Retrospective Rating Programs. Hopefully, this will spur some overdue legislative scrutiny of the Retro program, how its refunds are calculated and delivered to participating employers, and whether the costly program is achieving its goal of safer workplaces.

Certain government-haters are already seizing upon this snafu as evidence that the state-run workers' compensation system is too costly and inefficient. Is it really?

Washington state ranks 38th in the nation -- or 14th lowest (including the District of Columbia) -- in terms of workers' comp rates, according to the latest state-by-state comparison conducted by Oregon's Department of Consumer and Business Services. The latest study by the Oregon agency, which is updated every two years, was released in October 2008.

In fact, the news is even better for Washington employers. We are the ONLY state in the nation where workers pay a

portion of the workers' comp premiums, currently estimated to be 25-27% of the costs. Factoring that in—which Oregon's study does not—Washington actually ranks 48th, or 4th LOWEST IN THE NATION in terms of employer costs.

But don't expect to read about this good news in the newspapers. Why? Because it's the legislative session!

This is the time we wring our hands in worry because the gaggle of corporate lobbyists in Olympia, trying to save a buck for their clients, keep repeating that our workers' compensation costs (among other things) are too high and are harming the state's business climate.

This year has been no exception. Workers' compensation "reform" to lower costs is on the agenda for Boeing and the Association of Washington Business, among others. So, naturally, the echo chamber of public policy organizations they fund agree it's a problem that needs a-fixin'. The Washington Research Council reports that our state "has among the most expensive workers' compensation" programs in the nation. (They don't cite a source for that particular research.)

Continuing to play its patented trump card -- "location is a choice" -- Boeing has called on the state to lower workers' compensation costs, among other things. And Lord knows, when Boeing talks/threatens, newspapers like The (Everett) Herald and Puget Sound Business Journal are quick to parrot its call to action, swallowing whole the fiction that our workers' comp costs are comparatively high. After all, Boeing said so. At a luncheon. With lots of important people. That WE were invited to.

Does we sound bitter and snarky? Far from it!

The Washington State Labor Council takes great pride in joining the Department of Community and Economic Development in touting Washington as a great place to do business. Forbes magazine agrees, ranking Washington the 3rd best state in the nation to run a business, as do the Small Business and Entrepreneurship Council (we're 5th best!) and even the conservative Washington Tax Foundation (we're 12th best!)

We just wish we weren't swimming upstream against the torrent of deliberately distorted negative publicity that spews from self-interested business lobbyists who, despite all evidence to the contrary, still insist that We Suck™.

Deep-six "Essential Worker" bill; back AgJobs

Last week, we reported on HB 1896, creating an "Essential Worker Program" that would have taxpayers paying to help recruit, import and train guest workers for "peak-time" jobs in the agriculture, construction, retail, restaurant and hospitality industries. This offensive idea had a public hearing this week and merits no further consideration.

If the legislature wants to do something meaningful on the issue of immigration reform, it should approve a House Joint Memorial to Congress in support of federal AgJobs legislation, a major compromise between farmworker advocates and major agricultural employers to address the crisis.