



WORKERS' COMP FAIRNESS

All employer workers' compensation administrators should be held to standards of "good faith and fair dealing." But only injured workers in the public sector currently have that protection. The Legislature should end this two-tiered system. All workers, public and private, should be entitled to basic fairness if they are injured at work.

THE PROBLEM

In the 2023 session, the Legislature passed HB 1521 to require self-insured workers' compensation third-party administrators (TPAs) to hold themselves to standards of good-faith and fair-dealing when managing injured workers' claims. Lawmakers heard stories of workers experiencing chronic delays and misleading communication from employers' TPAs that pushed out necessary care and prevented injured workers from making ends meet. But in the 11th hour, HB 1521 was amended to deny protection to workers in the private sector.



THE SOLUTION



The Legislature should fix this injustice by approving HB 2168 / SB 5991, sponsored by Rep. Emily Alvarado and Sen. Liz Lovelett. This legislation will ensure that all injured workers benefit from equal protective standards, and can rely on the same processes as do their public sector counterparts. By ending this double standard, the Legislature will promote consistency and dignity within the workers' compensation system.



Workers' Comp Fairness legislation...

- Equalizes Protection — Extends the duty of good-faith and fair-dealing to private sector self-insurance, not just for government employers.
- Accommodates Current Contracts — Authorizes the state Department of Labor and Industries (L&I) to delay enforcement of decertification requirements to accommodate active contracts between self-insured employers and their TPAs.
- Ensures Consistency — Under current law, TPAs serving multiple public-and-private sector employers are held to two different standards. The Legislature should promote consistency and equitable treatment.

Our workers' comp system: The Basics

- Washington state's workers' compensation system is a critical safety net for Washington's working families. Its statutory goal is "to provide sure and certain relief for workers, injured in their work, and their families and dependents."¹ It provides wage and disability benefits for injured workers, as well as medical treatment of workplace injuries and illnesses.
- Washington is one of four states that administers its own workers' compensation benefits. The state Department of Labor and Industries (L&I) oversees the public State Fund (covering roughly two-thirds of the state's workers) and self-insured employers (covering the other third).² Other systems, such as federal workers' compensation and the Longshore and Harbor Workers Act, cover a small percentage of workers in Washington state.

1. RCW 51.04.010 — 2. L&I Workers' Comp Fundamentals — 3. WA workers' comp: High benefits, low cost (*The STAND*, 10-12-23) — 4. Oregon Dept. of Consumer and Business Services ranks WA 24th highest in total costs; 38th highest in employer costs (since workers pay about 25% of costs) 5. BallotPedia



WA voters reject privatization

In 2010, the Building Industry Association of Washington and insurance industry corporations bankrolled Initiative 1082, which sought to privatize Washington's workers' compensation system. Washington voters resoundingly defeated it — 59.09% "no" to 40.91% "yes." Voters in every county — east and west, red and blue — rejected it.⁵

- Employers and workers both pay into our workers' comp system to help cover the costs. Washington is the only state where workers pay a significant portion — roughly 25% — of workers' comp costs. Because workers pay into the system, our state has sought to maintain a stronger safety net for families with generally higher benefits.
- Washington's system delivers the best benefits for injured workers in the nation, and does so at a cost to employers that's lower than in most other states.³ Washington state ranks 38th highest in the nation in the costs employers pay for workers' compensation.⁴



In addition to Workers' Compensation Fairness, the Washington State Labor Council, AFL-CIO is supporting a range of issues that address economic opportunity and justice. Learn more at www.wslc.org or www.TheStand.org.

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