



2023 Agency Request Bills

January 2023

Summaries

The Department of Labor & Industries (L&I) is seeking approval of four proposals for the 2023 legislative session:

1. HB 1197 (Bronoske/Berry) and SB 5310 (Lovelett/Saldaña) - Allowing psychologists to be attending providers for workers' comp mental health-only claims

L&I is seeking to allow doctoral-level psychologists who meet the licensing requirements established by the Department of Health (DOH) to act as the Attending Provider (AP) for mental health-only workers' comp claims. This bill was introduced as SB 5784 in 2022, but ran out of time during the short session.

The AP is responsible to file the claim, certify time-loss, coordinate care, determine work restrictions, and recommend when a worker has reached maximum medical improvement. Current law does not include in one place a definition of "Attending Provider" but the examples of providers in this role include physicians, licensed registered advanced nurse practitioners, chiropractors and others. Excluded from the list are psychologists, even though these are often the provider treating claims such as Post Traumatic Stress Disorder (PTSD). Expansions in workers' comp to cover work-related PTSD where there is not also a physical injury or illness have exposed a problem for workers with these claims: there is a shortage of clinicians willing to take on mental health-only claims who are permitted to be attending providers (APs). This proposal seeks to help address the shortage so that the department has an attending provider to actively engage in the management of the claim; the worker has greater and quicker access to needed treatment; and the employer welcomes a healthy employee back to work with lower claim costs.

2. HB 1558 (Cheney/Fosse) and SB 5084 (Braun/Keiser) – Creating a self-insurance reserve fund

This proposal would create a new self-insurance reserve fund to hold self-insured pension assets and liabilities. Currently state fund and self-insured pensions are deposited into a single pension reserve fund. This proposal has two phases: the first is to capture the interest earned in a sub-fund, the second injury fund, effective July 1, 2023; the second phase would create a new account to separate out self-insured pensions and second injury fund assessments from the state fund. These changes would result in:

- Making self-insured second injury assessments less volatile by allowing investment income to be earned and reducing the need for a large fund balance;
- Making financial statements more transparent; and
- Reducing the risk of inadvertent subsidization between self-insurance and the state fund.

3. HB 1309 (Fosse/Cheney) and SB 5088 (Keiser/King) - Updating references to plumbing contractor chapter in workers' comp, public works and prevailing wage laws (SB 5604 in 2022)

In 2020, the legislature made major revisions to plumber contracting requirements, including creating registration requirements specifically for plumbing contractors and moving those requirements from the general contractor law (RCW 18.27) into the existing plumbing chapter (RCW 18.106). When that move was made, rights and responsibilities for contractors in workers' comp, public works and prevailing wage laws that had applied to plumbing contractors were inadvertently left out, resulting in a need to add those back into the law. These changes would add references to the new plumbing contractor law, restoring prior requirements for workers' comp, public works and prevailing wage law. This bill was introduced as SB 5604 in 2022, but ran out of time during the short session.

The 2023 proposal includes new additions:

- References to electrical and elevator contractors are added in the public works statute so that an awarding agency may not award a contract to an unlicensed contractor, and in the prevailing wage law so that an unlicensed contractor is subject to debarment (may not bid on public works contracts for a period of time) after 2 violations.
- References to elevator contractors are added to the list of licenses that must be verified prior to subcontracting on a public work and that, for prevailing wage purposes, they must be a licensed contractor and meet the other six-parts of the test to be considered an independent contractor and exempt from prevailing wage requirements.

4. SB 5089 (King) - Adding board members and other changes in Factory Assembled Structures

L&I is seeking to increase representation on the Factory Assembled Structures Board from nine members to "at least 11" to include additional industries, trade participation, and diversity considerations. This proposal would also update references to rules and agencies that have been replaced or renamed, such as references to the Department of Community Trade and Economic Development; change the word order referring to "manufactured and mobile homes" to make more consistent with current usage; and explicitly state that installation must conform with all related standards.

Within the department, the Factory Assembled Structures program (FAS) is responsible for approving plans and inspecting manufactured buildings of several types. FAS staff review and approve plans before construction begins with inspections taking place at the factory to ensure all appropriate codes are met during construction. Examples of the types of structures built this way include portable classrooms, hazardous storage buildings, homes, offices, food trucks and concession trailers. The FAS program also regulates the manufacturing of Recreational Vehicles and Park Model RVs sold in Washington. In addition the FAS program administers Washington's contracts with HUD that oversee the Manufactured Housing industry within the state, including auditing new homes being manufactured in factories located in Washington, investigating consumer complaints about manufactured homes from Washington homeowners and the training and certification of contractors who install manufactured homes in Washington.

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