Summaries

The Department of Labor & Industries (L&I) is requesting five proposals for the 2018 session. Two are bills returning from 2017. The others are new.

SHB 1953 (Dolan): Responding to federal changes by increasing maximum Safety and Health penalties – passed the House on a 53 to 45 vote

Under a change in federal law, the Occupational Safety & Health Administration (OSHA) was required to apply a one-time “catch up” to maximum civil penalties for workplace-safety violations and must now annually adjust those figures to reflect inflation. The one-time catch-up took effect August 1, 2016 and the annual inflation adjustment was applied in January 2017 and went up again in January 2018. OSHA increased maximum penalties for general, serious, posting and failure to abate violations from $7,000 to $12,934 and for willful or repeat penalties from $70,000 to $129,336. Washington does not issue monetary penalties on non-statutory first time general violations. Minimum penalties for willful violations have also been raised from $5,000 to $9,239. As a “state plan” state, penalties under the Washington Industrial Safety & Health Act (WISHA) must be “at least as effective as” OSHA’s.

This proposal would modify state law to set up an annual adjustment system which would retain the current penalty maximums and willful minimum amounts in statute unless required to be higher by OSHA. No changes to the current method for determining penalty amounts are planned, so changing these caps and one minimum is expected to affect fewer than 1% of violations written at the top and bottom of the range. The bill would take effect on January 1, 2019. Penalty money paid as a result of these citations is placed in the workers’ compensation supplemental pension fund, helping workers and families of those who have died on the job.

SB 6252 (King): Extending the temporary elevator mechanic license – passed the Senate unanimously

The Elevator Program may issue a temporary elevator mechanic license to an elevator mechanic who has completed 75% of the education and training requirements towards a full license and to those certified as qualified and competent by licensed elevator contractors. A temporary elevator mechanic license entitles the license holder to the same rights and privileges of an elevator mechanic license, but may be limited to a certain geographic area or type of conveyance. Under current law, the temporary license is valid for 30 days from the date of issuance and requires an individual to submit evidence that he or she has completed a minimum of eight hours of instruction within one year preceding the license in order to renewal it.

The 30-day licensing period is burdensome for both customers who must apply for renewal of temporary licenses every 30 days and staff who process a significant number of applications each year. This proposal extends a temporary license from 30 days to twelve months. It relieves the burden of more frequent renewal requests and would provide sufficient time for a mechanic to accrue all remaining training hours to qualify to take the exam for the full license. It is intended to eliminate the need to renewal.

HB 2821 (McCabe): Creating an additional option for Factory Assembled Structures inspections – passed the House unanimously

Within the department, the Factory Assembled Structures program (FAS) is responsible for approving plans and inspecting both new and altered manufactured/mobile homes and recreational vehicles for safety. For manufacturers, FAS staff review and approve plans before construction begins. An inspection
also takes place at the factory to ensure all appropriate codes are met during construction. There are approximately 26 in-state and 32 out-of-state manufacturers who build these structures. Increasingly, units are also being purchased from manufacturers located in different countries. Examples of the types of structures built this way include portable classrooms, hazardous storage buildings, homes and offices. These structures must comply with the same rules and regulations as any structure built onsite.

Current law gives the department authority to contract with the local enforcement authority to conduct the factory inspection rather than requiring L&I staff to travel. This proposal would expand current authority so the department could also contract with local, private third parties who are knowledgeable about Washington’s codes and have the ability to conduct the inspections. It would create another option so that L&I inspectors would not be required to travel – whether to other states or other countries - to inspect structures assembled in factories.

**SB 6393 (Braun): Setting separate investment return rates for self-insured and state fund workers’ compensation pensions – passed the Senate unanimously**

This proposal would allow the Department to use a different investment earning assumption for pensions in the workers’ compensation system for state fund pension liabilities and pensions managed on behalf of self-insured employers.

Under current law, the amounts paid into the pension reserve fund by the state fund or by self-insured employers must be calculated “in the same manner.” Accordingly, the Department calculates the pension reserves by estimating the total amount that the Department will pay over the life of each pension. One factor in calculating that amount is the expected earnings from interest. The Department sets that expected earnings rate, known as the pension discount rate. The Department could adjust the rate through rule and transfer the appropriate amount to the pension reserve fund to make up the difference. However, that action would result in the self-insured employer group being required to immediately pay a large, one-time lump-sum charge to fill the deficit. This proposal allows a separate rate to be adopted through rule for earnings investments for self-insured pensions.

**Contact**
Tammy Fellin, Legislative Director
360-902-6805
tammy.fellin@lni.wa.gov