



2025 Agency Request Bills

October 2024

Summaries

The Department of Labor & Industries (L&I) has submitted four potential request bills for the 2025 legislative session. They are:

Z-0004.4 - Making administrative enforcement of labor laws by the department of labor and industries consistent with the wage payment act.

This proposal would make the enforcement, appeal, and collection processes for labor laws administered by the department consistent with the processes used in the Wage Payment Act (WPA). The WPA includes an administrative process in which L&I may issue a Citation and Notice of Assessment and these determinations may be appealed in accordance with the Administrative Procedures Act. It further provides explicit collections authority and establishes penalties to serve the broader public purpose of encouraging compliance.

There are nine labor standards statutes affected by this proposal. They are:

- Farm Labor Contracting (RCW 19.30)
- Agricultural Labor Standards (RCW 49.30)
- Youth Employment (RCW 49.12.390 through RCW 49.12.420)
- Mandatory Overtime for Health Care Employees (RCW 49.28)
- Family Care Act (RCW 49.12.265 through RCW 49.12.295)
- Domestic Violence Leave (RCW 49.76)
- Military Family Leave (RCW 49.77)
- Emergency Services Leave (RCW 49.12.460)
- Equal Pay and Opportunities Act (RCW 49.58)

The department's current authority was granted at different times and under separate laws. Examples of various enforcement mechanisms include issuing a Class 1 Civil Infraction for violations of Agricultural labor standards that is filed in the district court or a Notice of Infraction for violations of Domestic Violence Leave. Appeal processes are also inconsistent, ranging from review at the Office of Administrative Appeals, appeal to the L&I Director, or a judicial process.

Additionally, there is no collections authority in law for many of the current penalties under the labor standards laws, requiring the department to rely on an outside collection agency. This proposal establishes new collections authority and procedures for multiple labor standard laws, increasing protection of workers and ensuring violators are held accountable.

Bringing administrative processes into alignment with the WPA will result in increased transparency for employers and employees. Having a consistent process ensures a clearer path for employers that have compliance issues, a consistent process for L&I to enforce and collect and greater relief for workers owed wages and other benefits.

Z-0005.3 - Explicitly listing the department of labor and industries in the definition of limited authority Washington law enforcement agency while not granting new authority.

This proposal would explicitly list L&I in the definition of “limited authority Washington law enforcement agency” in the Mutual Aid Peace officers Powers Act rather than relying on a close read of that law and authority granted in Title 51. There would be no change to the authority granted the department, which was first recognized in 1984 and expanded to include access to criminal records data in 2008, to pursue investigations related to workers’ comp fraud by workers, employers and medical providers. However, investigative staff are often denied access to needed tools and information because law enforcement agencies rely solely on the list of agencies identified in RCW 10.93.020 instead of reading the language as inclusive of the department. By adding L&I to this list, such delays and denials to these tools would be eliminated.

L&I staff rely on this authority today for activities that include obtaining and serving search warrants, issuing subpoenas, conducting criminal investigations, and referring cases for prosecution. Examples of the types of investigations they conduct include:

- employers failing to secure industrial insurance for their employees;
- intentional false reporting of workers and/or the hours of employees;
- working while collecting workers’ comp benefits;
- using deception and other fraudulent means to obtain workers’ comp benefits;
- complaints of discrimination due to industrial insurance filings;
- fraudulent billing schemes or practices by medical providers.

Z-0006.2 - Establishing department authority to ensure payment is received from the self-insured employer after a self-insured group or municipal employer has their self-insurer certification withdrawn.

In 2023, the legislature passed SHB 1521 that directed the department to adopt a “good faith and fair dealing” standard for all aspects of self-insured workers’ comp claims. A self-insured employer manages workers’ comp injury claims filed by their employees and communicates directly to injured workers with department oversight. There are approximately 360 self-insured employers or groups in Washington, of which about 70 are municipal groups or individual employers.

Under the law that took effect July 1, 2024, municipal employers *must* lose certification as a self-insured entity for violating this new standard three times in a three-year period. Decertification results in the employer being compelled to join the state fund, but they would remain liable for costs associated with prior self-insured claims.

This proposal would give L&I explicit authority to administer claims of self-insured municipal employers who are decertified for violations of the duty of good faith and fair dealing, including billing for claim costs and guaranteeing payment of outstanding future claim reserves. The department is directed to adopt rules to determine the best methods for administration.

Z-0033.2 – Creating a pilot program for flexible and customizable vocational and re-employment services.

This proposal tests the effectiveness of enhanced reemployment services and increased flexibility in the use of a reemployment benefit provided earlier in the claim to improve return-to-work outcomes for workers with permanent restrictions. Designed as a voluntary pilot program, it will rely on the expertise of the vocational rehabilitation advisory committee and the Employment Security Department.

The goal of the workers' comp system is to help injured workers heal and return to work. While innovations in vocational services delivered earlier in the claim have helped more injured workers recover quickly and return to work, a small share of injured workers still develop long-term disability. Long-term disability poses serious and long-lasting risks to workers' well-being and ability to pursue their life goals. Currently, workers with permanent restrictions have few supported pathways back to employment. Most of these workers are unable or not interested in pursuing the traditional retraining benefit currently offered.

This pilot would build upon the existing option that allows for an award of 9 months of time-loss at the time a worker selects flexible retraining. In the pilot, up to 500 claimants in each of the three years of the pilot would be eligible for an additional 15 months of time-loss as they make meaningful progress toward successfully completing their selected training. Workers choosing this option would also have access to focused reemployment services, counselors and increased flexibility in the use of a reemployment benefit.

In addition to criteria developed in collaboration with the business and labor representatives on the vocational rehabilitation advisory committee, participation in the pilot would be available to workers who:

- Have a permanent impairment that prevents them from returning to their job of injury
- Are found not to have transferrable skills; and
- Are released to at least sedentary work.

Participation in this pilot is entirely voluntary. All workers would continue to have full access to reemployment options currently available. If a worker chooses not to pursue this path, they would move on to the current plan development process.

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