

2004 Transition Executive Summary

Department of Labor and Industries

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Agency Responsibilities

- L&I's mission is: "To provide a safe and healthful environment in which to work and live. In partnerships with our customers, we strive to prevent injury, occupational illness and disability, and limit economic hardship."
- L&I is the state's third-largest executive cabinet agency, with 2,700 employees, about two-thirds in the central offices in Tumwater and one-third in 22 service centers throughout the state
- The agency is divided into three major divisions plus field operations and support services.
- Operations are partially decentralized. Most activities having to do with workers' compensation are conducted at L&I's Tumwater building. Policy and regulations for other activities such as workplace safety and specialty compliance also are done at headquarters. Six regions provide direct workplace safety, specialty compliance and workers' compensation services throughout the state.

Insurance Services

- Washington's workers' compensation system covers 1.9 million workers and 160,000 employers, handles 144,000 claims each year and pays out \$1.4 billion each year in benefits.
- It is one of the largest workers' compensation insurers in the nation.
- It is a no-fault insurance system that pays medical expenses and partially replaces lost wages for workers who suffer job-related injuries or illnesses.
- Funding is from three sources:
 - Quarterly premiums paid by employers.
 - Payroll deductions from workers (a unique feature).
 - Income from investments.

- About two-thirds of Washington workers are covered by the state system. The other one-third are workers at federal facilities, and some larger local governments and large employers who are self-insured. Insurance Services regulates self-insured coverage.
- The division also provides financial, medical and mental-health benefits to crime victims. Funding comes from the Public Safety and Education Account.

Specialty Compliance Services

- This division sets policies and rules relating to a variety of compliance programs, including
 - Prevailing wage rules on public sector projects.
 - Wage-and-hour laws such as minimum wage requirements.
 - Child labor restrictions and family leave.
 - Electrical, elevator and boiler inspections.
 - The administration of the state apprenticeship program.
 - The inspection of factory-assembled structures such as manufactured homes.
- The division also:
 - Registers construction contractors.
 - Issues licenses to electricians who have met testing and training requirements.
 - Certifies plumbers.
- Funding comes from many sources, including fees for services provided such as electrical permits, contractor registration, boiler inspections, etc. A portion of funding also comes from workers' compensation premiums for wage-and-hour law enforcement and apprenticeship activities.

WISHA Services

The services include:

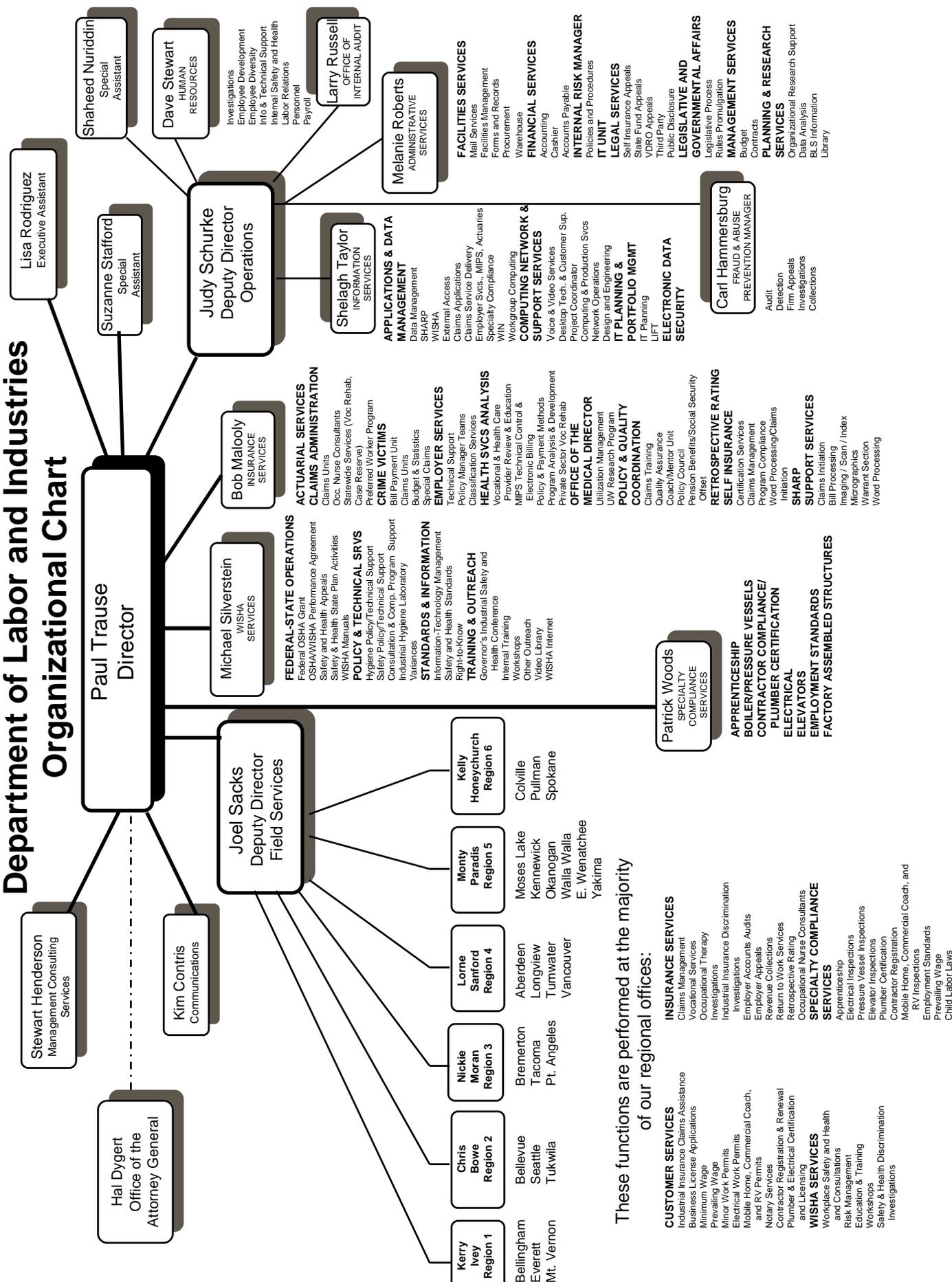
- The administration of the state's workplace safety program, called WISHA after its enabling act, the Washington Industrial Safety and Health Act.
- The development and enforcement of rules that protect workers from hazardous job conditions.
- The development and delivery of worker safety resources, such as workshops, online training, publications and video to assist employers and employees in preventing injuries, illnesses and fatalities .
- Three-fourths of funding comes from workers' compensation premiums; the remainder from federal grants by the Occupational Safety and Health Administration. (OSHA), the Asbestos Account and Worker's Right to Know Account.
- WISHA is an approved plan under OSHA. Federal support requires that L&I's worker safety program be "at least as effective as" worker safety programs administered by OSHA in other states.

Field operations

- Field offices are in Aberdeen, Bellevue, Bellingham, Bremerton, Colville, East Wenatchee, Everett, Kennewick, Longview, Moses Lake, Mount Vernon, Okanogan, Port Angeles, Pullman, Seattle, Spokane, Tacoma, Tukwila, Tumwater, Vancouver, Walla Walla and Yakima.
- These operations provide service to more than 700,000 people and collect more than \$65 million annually of L&I's revenue from both fees and premium payments.
- Field staff report to six regional administrators.

- Field staff provide services across all three major divisions, including:
 - Safety and health:
 - Providing free on-site consultations and workshops for employers on workplace safety.
 - Investigating complaints about unsafe workplaces and conducting safety inspections of workplaces.
 - Workers' compensation:
 - Providing free advice to employers on how to help injured workers return to the job as soon as possible and reduce costs.
 - Investigating fraud by injured workers, employers and providers.
 - Auditing to be sure records are accurate.
 - Assisting in collection of unpaid workers' compensation premiums.
 - Construction-related services:
 - Enforcing contractor registration requirements.
 - Conducting electrical inspections and enforcing electrical-license requirements.
 - Conducting elevator, boiler/pressure vessel and factory-assembled mobile homes/structures inspections.
 - Other services:
 - Providing master business applications.
 - Enforcing state's minimum wage, prevailing wage, and minor work permit requirements.
 - Providing direct counter service for most L&I programs, including assisting with filing of workers' compensation and crime victim claims, registering contractors and issuing electrical permits.
- Field Services funding includes many different funding sources, such as fees for electrical permits and inspections, elevator permits and inspections, and workers' compensation premium accounts.

Department of Labor and Industries Organizational Chart



These functions are performed at the majority of our regional offices:

- CUSTOMER SERVICES**
 - Industrial Insurance Claims Assistance
 - Business License Applications
 - Minimum Wage
 - Prevailing Wage
 - Minor Work Permits
 - Electrical Work Permits
 - Mobile Home, Commercial Coach, and RV Permits
 - Notary Services
 - Contractor Registration & Renewal
 - Plumber & Electrical Certification and Licensing
- WISHA SERVICES**
 - Workplace Safety and Health and Consultations
 - Risk Management
 - Education & Training
 - Workshops
 - Safety & Health Discrimination
 - Investigators
- INSURANCE SERVICES**
 - Claims Management
 - Vocational Services
 - Occupational Therapy
 - Investigations
 - Industrial Insurance Discrimination
 - Employer Accounts Audits
 - Revenue Collections
 - Return to Work Services
 - Retrospective Rating
 - Occupational Nurse Consultants
- SPECIALTY COMPLIANCE SERVICES**
 - Apprenticeship
 - Electrical Inspections
 - Pressure Vessel Inspections
 - Elevator Inspections
 - Plumber Certification
 - Contractor Registration
 - Mobile Home, Commercial Coach, and RV Inspections
 - Employment Standards
 - Prevailing Wage
 - Child Labor Laws

Department of Labor and Industries
Operating Budget Summary
2003-2005 Biennium (as allotted, including unallotted)

010	ADMINISTRATIVE SERVICES - 261.2 FTEs			
001	1	GENERAL FUND - State		284,730
02V	1	PUBLIC SAFETY & EDUCATION ACCOUNT - State		223,268
03B	1	ASBESTOS ACCOUNT - State		23,983
03K	1	INDUSTRIAL INSURANCE PREMIUM REFUND - State		90,221
095	1	ELECTRICAL LICENSE ACCOUNT - State		622,352
163	1	WORKER/COMMUNITY RIGHT TO KNOW ACCT - State		109,821
234	1	PUBLIC WORKS ADMINISTRATION ACCT - State		65,941
608	1	ACCIDENT ACCOUNT - State	19,260,136	
608	2	ACCIDENT ACCOUNT - Federal	879,920	
609	1	MEDICAL AID ACCOUNT - State	20,343,837	
609	2	MEDICAL AID ACCOUNT - Federal	155,280	
885	1	PLUMBING CERTIFICATE ACCOUNT - State	38,968	
892	1	PRESSURE SYSTEMS SAFETY ACCOUNT - State	70,936	
Total Administrative Services				\$ 42,169,393

020	INSURANCE SERVICES - 1,269.1 FTEs			
001	1	GENERAL FUND - State		2,400
608	1	ACCIDENT ACCOUNT - State	65,228,594	
608	2	ACCIDENT ACCOUNT - Federal	750,000	
609	1	MEDICAL AID ACCOUNT - State	91,704,658	
609	2	MEDICAL AID ACCOUNT - Federal	750,000	
Total Insurance Services				\$ 158,435,652

030	INFORMATION SERVICES - 215.0 FTEs			
001	1	GENERAL FUND - State		482,174
02V	1	PUBLIC SAFETY & EDUCATION ACCOUNT - State		394,905
03B	1	ASBESTOS ACCOUNT - State		17
095	1	ELECTRICAL LICENSE ACCOUNT - State		1,524,932
163	1	WORKER/COMMUNITY RIGHT TO KNOW ACCT - State		379,695
234	1	PUBLIC WORKS ADMINISTRATION ACCT - State		86,044
608	1	ACCIDENT ACCOUNT - State	39,610,473	
609	1	MEDICAL AID ACCOUNT - State	37,624,372	
885	1	PLUMBING CERTIFICATE ACCOUNT - State	100,180	
892	1	PRESSURE SYSTEMS SAFETY ACCOUNT - State	138,010	
Total Information Services				\$ 80,340,802

040	WISHA SERVICES - 484.1 FTEs			
03B	1	ASBESTOS ACCOUNT - State		700,500
163	1	WORKER/COMMUNITY RIGHT TO KNOW ACCT - State		2,090,984
608	1	ACCIDENT ACCOUNT - State	42,051,624	
608	2	ACCIDENT ACCOUNT - Federal	11,124,080	
609	1	MEDICAL AID ACCOUNT - State	18,397,529	
609	2	MEDICAL AID ACCOUNT - Federal	1,942,720	
Total WISHA Services				\$ 76,307,437

060 SPECIALTY COMPLIANCE SERVICES - 348.1 FTEs

Department of Labor and Industries

Operating Budget Summary

2003-2005 Biennium (as allotted, including unallotted)

001	1	GENERAL FUND - State	11,344,986
095	1	ELECTRICAL LICENSE ACCOUNT - State	27,372,591
162	7	FARM LABOR REVOLVING ACCOUNT - Local	28,000
234	1	PUBLIC WORKS ADMINISTRATION ACCT - State	2,460,815
608	1	ACCIDENT ACCOUNT - State	4,678,914
608	2	ACCIDENT ACCOUNT - Federal	644,000
609	1	MEDICAL AID ACCOUNT - State	885,566
609	2	MEDICAL AID ACCOUNT - Federal	114,000
885	1	PLUMBING CERTIFICATE ACCOUNT - State	1,365,052
892	1	PRESSURE SYSTEMS SAFETY ACCOUNT - State	2,691,238
Total Specialty Compliance Services			\$ 51,585,162
080	CRIME VICTIMS - 44 FTEs		
001	1	GENERAL FUND - State	
02V	1	PUBLIC SAFETY & EDUCATION ACCOUNT - State	21,752,408
02V	2	PUBLIC SAFETY & EDUCATION ACCOUNT - Federal	8,462,000
Total Crime Victims Compensation			\$ 30,214,408
090	LEGAL SERVICES - 0 FTEs		
001	1	GENERAL FUND - State	31,210
02V	1	PUBLIC SAFETY & EDUCATION ACCOUNT - State	90,119
095	1	ELECTRICAL LICENSE ACCOUNT - State	384,725
608	1	ACCIDENT ACCOUNT - State	19,010,459
609	1	MEDICAL AID ACCOUNT - State	19,015,138
892	1	PRESSURE SYSTEMS SAFETY ACCOUNT - State	6,016
Total Legal Services			\$ 38,537,667
235	Total All Funds - 2,621.5 FTEs		
001	1	GENERAL FUND - State	12,145,500
02V	1	PUBLIC SAFETY & EDUCATION ACCOUNT - State	22,460,700
02V	2	PUBLIC SAFETY & EDUCATION ACCOUNT - Federal	8,462,000
03B	1	ASBESTOS ACCOUNT - State	724,500
03K	1	INDUSTRIAL INSURANCE PREMIUM REFUND - State	90,221
095	1	ELECTRICAL LICENSE ACCOUNT - State	29,904,600
162	7	FARM LABOR REVOLVING ACCOUNT - Local	28,000
163	1	WORKER/COMMUNITY RIGHT TO KNOW ACCT - State	2,580,500
234	1	PUBLIC WORKS ADMINISTRATION ACCT - State	2,612,800
608	1	ACCIDENT ACCOUNT - State	189,840,200
608	2	ACCIDENT ACCOUNT - Federal	13,398,000
609	1	MEDICAL AID ACCOUNT - State	187,971,100
609	2	MEDICAL AID ACCOUNT - Federal	2,962,000
885	1	PLUMBING CERTIFICATE ACCOUNT - State	1,504,200
892	1	PRESSURE SYSTEMS SAFETY ACCOUNT - State	2,906,200
Total Department of Labor and Industries			\$ 477,590,521

Cholinesterase Monitoring

What is the issue?

- Farmworker advocates have pushed for comprehensive testing of farmworkers who handle pesticides. The State Supreme Court in 2002 ordered L&I to move forward with rules requiring testing of farmworkers for cholinesterase levels. L&I adopted WAC 296-307-148 on Cholinesterase Monitoring in December 2003.
- Cholinesterase (ChE) is an enzyme essential to human nervous systems. Exposure to organophosphates and N-methyl carbamate pesticides may lower the body's level of available ChE, causing symptoms such as blurred vision, diarrhea, tremors, seizures, loss of consciousness and even death.
- ChE depression is measured by comparing exposure-free "baseline" blood tests to periodic tests taken during pesticide-application season. When significant ChE depression occurs, employers must evaluate and correct their pesticide-worker-protection program to prevent further overexposure. In severe cases, workers must be removed from handling these pesticides and reassigned to other duties temporarily or paid for time off to recover.
- The Department of Health has conducted 2,765 baseline blood tests and 998 periodic follow-up tests. There were 118 "alerts" (workers identified with ChE depressions greater than 20 percent from the baseline), and 22 of those were at the exposure-removal level.
- The department is offering consultations to these employers. Enforcement action may be considered when a timely consultation cannot be scheduled or when an employer has multiple employees with significant ChE depression.

What is the urgency?

- The rule requires L&I to organize a scientific team to oversee data collection, analyze results and make recommendations by Nov. 1, 2004, and to establish a stakeholder advisory committee to evaluate the rule implementation and make recommendations by Dec. 1, 2004.
- Farmworker advocacy groups and the Mexican consulate in Seattle have expressed concern about the high level of exposure indicated in the tests. Farm groups are questioning the test results and who will pay for future testing. Both are likely to raise issues at the 2005 Legislature.

Why is it significant and/or controversial?

- Some stakeholders say the laboratory test results are unreliable. Four early test results showing significant depressions were questioned and resulted in those depressions being administratively rescinded. Since then, additional measures were added to ensure laboratory quality control.
- Money was appropriated to pay for the tests and some related expenses during the 2003-2005 biennium, covering the first year and a half of testing. L&I opposes this as a permanent measure. The growers will ask the 2005 Legislature to require L&I to continue paying for the tests.
- Growers argue that exposure has been a result of worker behavior, such as not wearing protective gear furnished by growers.
- The number of exposure hours that trigger the requirement for medical testing will be reduced in 2005.

Who are the key players/stakeholders?

- United Farmworkers, Columbia Legal Services, Washington Growers Clearinghouse, Washington Potato Growers, Washington State Farm Bureau, Mexican Consul, Department of Health, Department of Agriculture, medical and scientific communities.

Staff contacts

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Crime Victims' Funding Shortfall

What is the issue?

- The Crime Victims' Compensation Program pays for victim medical costs and partially replaces wages, if no other source of funding is available such as insurance.
- Costs to provide such medical treatment have increased dramatically. The increase was driven, in part, by the severity of injuries, increasing hospital costs and an increased number of people without insurance.
- On the pace it was spending, the program would have run out of money before the end of the 2005 fiscal year, perhaps as early as February or March.
- To prevent that from happening, on Sept. 1 the agency reduced the reimbursement rates it pays to health-care providers to the levels paid by the Department of Social and Health Services. On average, reimbursement was reduced by 30 to 45 percent.

What is the urgency?

- The reduction bought time but, if trends continue, the expected savings will not be adequate for this fiscal year. The program still could run out of funding as early as March.
- If that happens, the program will have to deny legitimate claims or delay paying benefits until the Legislature decides on a request to appropriate additional money.

Why is it significant and/or controversial?

- To avoid a lapse in coverage, L&I has submitted a supplemental budget request to Governor Locke. Also, the lower reimbursement rate was characterized as being temporary. That issue will need to be addressed during the upcoming budget process.
- Health-care providers, such as counselors, who have built practices around treating the victims of rape and domestic violence, are particularly hard hit by the fee reduction. There is concern that counselors will stop accepting crime victim claims, limiting access to treatment.

Who are the key players/stakeholders?

The Crime Victims' Compensation Program Advisory Committee encompasses various interest groups. Key members include: Jenny Wieland, Families & Friends of Violent Crime Victims; Suzanne Brown-McBride, Washington Coalition of Sexual Assault Programs; Bev Emery, Office of Crime Victims Advocacy; Jeralita Costa, Community Victim Liaison, NW Region of the Community Protection Unit; Susan Hannibal, Children's Administration, DSHS; Shirley Fischer, Kittitas Valley Hospital; and Mary Herdener, Child Abuse Intervention Center.

What is the status now and timeline for conclusion or resolution?

- Governor Locke has received a supplemental budget request. The new governor will need to decide whether or not to support that request.
- If the request is withdrawn, or if it's not approved by the Legislature, L&I will need to decide how it plans to deal with the shortfall. Two options are to not accept new claims, or not pay bills until the budget shortfall is corrected.

Links to web sites with additional information:

<http://www.LNI.wa.gov/ClaimsInsurance/CrimeVictims/default.asp>

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Workers' Compensation Premium Rates

What is the issue?

- Each year L&I sets workers' compensation premium rates for employers and workers. For 2005, L&I has proposed a rate increase of 3.7%, based on expected medical cost growth and wage increases.
- Rates are set using historical trends and economic forecasts to assure that funds are available to pay all the costs of claims incurred during 2005, including claim costs that may stretch over several years.
- Both employers and workers pay premiums. Workers pay slightly over 25% of the cost through a payroll tax. Employers make quarterly payments.
- Premium costs are relatively low compared to other states. L&I did not increase rates for eight years because of high investment earnings in the 1990s. A plunge in earnings required a 29% increase for 2003 and a 9.8% increase for 2004. L&I is proposing a 3.7% increase for 2005.
- Rates for each company and worker can vary, based on hours each employee works, type of work and number of claims filed against that employer.

What is the urgency?

- Hearings on 2005 rates begin the day after Election Day.
- New rates go into effect on Jan. 1, 2005, with first-quarterly payment due April 30.

Why is it significant and/or controversial?

- Widespread impact in our state – more than 160,000 employers and 1.9 million workers pay these premiums.
- Business groups have challenged the underlying assumptions of all three years' increases, especially the amount of reserves required by L&I. They oppose any increase.
- The rate increases are cited as a major reason for a proposed initiative to the Legislature by the Business Industry Association of Washington. BIAW has said it will be gathering signatures this fall. The State Labor Council has also filed an initiative to reform the workers' compensation system.

Who are the key players/stakeholders?

Business – Association of Washington Business, BIAW, Independent Business Association, National Federation of Independent Business and other trade associations; **Labor** – Washington State Labor Council and other labor organizations; **Others** – Washington State Trial Lawyers Association

What is the status now and timeline for conclusion or resolution?

- Public hearings on the rate increase will be held Nov. 3 in Spokane, Nov. 4 in Yakima, Nov. 5 in Mount Vernon, Nov. 8 in Tumwater, Nov. 9 in Tukwila, Nov. 10 in Tacoma and Nov. 11 in Vancouver
- L&I's director must make a decision on rates in late November.

Links to web sites with additional background information.

- News release announcing proposed rate increase at www.LNI.wa.gov/news/2004/pr040909a.asp.
- Tables showing proposed average rate for each risk class can be found at www.LNI.wa.gov.

Staff contacts

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Use of Workers' Compensation Funds

What is the issue?

- 160,000 employers and 1.9 million workers pay about \$1 billion annually in workers' compensation premiums in Washington. Employer groups have consistently opposed use of these funds for any purpose other than providing workers' compensation benefits.
- Most premium and investment dollars (89%) are spent to pay injured workers' medical costs and partial replacement for lost wages and administrative costs for L&I for processing claims and other claim-related efforts.
- Funds also are used on enforcement of workplace safety standards and workplace consultation services by WISHA Services and workplace safety research by L&I's SHARP Program and the University of Washington's environmental health program. This use is strongly supported by the department and organized labor.
- Most states charge private workers' compensation companies a premium tax, which usually goes to pay for workplace safety enforcement and non-related costs. No premium tax is charged in Washington. Previous legislatures also have approved using workers' compensation funds for L&I's apprenticeship and employment standards enforcement and a small appropriation to the Department of Health for migrant worker housing.

What is the urgency?

- Employer interests will ask the 2005 Legislature to limit use of premium dollars to benefits and direct administrative costs.

Why is it significant and/or controversial?

- Promoting workplace safety is an important part of the workers' compensation effort, i.e., fewer injuries mean fewer workers' compensation claims.
- The State General Fund would have to absorb more than \$4 million in costs for the Apprenticeship and Employment Standards current-level activities. Additional funding would be needed for the UW and Department of Health activities.

Who are the key players/stakeholders?

Business – *Association of Washington Business, BIAW, Independent Business Association, National Federation of Independent Business, Associated General Contractors, Washington Farm Bureau;*

Labor – *Washington State Labor Council, Associated Builders and Contractors;* **Others** – *Washington State Trial Lawyers Association.*

Links to web sites with additional background information.

- More information on apprenticeship www.LNI.wa.gov/TradesLicensing/Apprenticeship/default.asp.
- More information on employment standards www.LNI.wa.gov/WorkplaceRights/default.asp.
- More information on workplace safety www.LNI.wa.gov/Safety/default.asp.

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Melanie Roberts, assistant director for Administrative Services, 360-902-6921, grin235@LNI.wa.gov

Workers' Compensation Legislation

What is the issue?

- Reforming the workers' compensation system has been a major legislative topic in recent years.
- Business has been concerned about premium costs, operational efficiencies and expansions in benefits. They have favored legislation to limit benefits and operational parameters. Labor has generally opposed limiting benefits.
- Earlier this year, an attempt by Governor Locke's office to bring business and labor to the table to reach an agreement on workers' compensation reform failed.
- Nine cases are now pending before the State Supreme Court regarding expansion of workers' compensation benefits.
- Premium rates rose by 29% in 2003 and 9.8% in 2004. L&I proposes a 3.7% increase in 2005.

What is the urgency?

- Workers' compensation reform is likely to be one of the major topics of the 2005 Legislature.
- Business will be seeking legislation to cut or cap benefit levels. They also will be seeking to overturn a court decision called *Avundes* making it easier for injured workers to obtain time-loss payments based on full-time rather than seasonal employment rates.
- The Building Industry Association of Washington has launched an initiative to the Legislature this fall, which would change workers' benefits.
- The State Labor Council also has launched an initiative to the Legislature that would expand workers' benefits and drop workers' contribution, which amount to about 25% of premiums paid.

Why is it significant and/or controversial?

- Any changes in the workers' compensation system can have broad impact on the state's workers and the business community. Example: dropping workers' contribution would mean an immediate 25% increase in employers' workers' compensation rates.
- If the two initiatives obtain the necessary signatures, the Legislature will have major choices: enact one or both into law, decline to act and send one or both to the November 2005 ballot, or enact a third alternative and send all three to the 2005 ballot.
- The Supreme Court may rule favorably on one or more of the benefit expansion cases, pushing up workers' compensation costs and triggering a rate increase for 2006.

What is the status now and timeline for conclusion or resolution?

- Both the BIAW and Labor initiatives must gather about 200,000 voter signatures by late December.
- L&I is working with the Workers' Compensation Advisory Committee on issues related to how premium rates are calculated. The committee has been authorized to hire its own actuary in helping develop recommendations, probably in the spring of 2005.
- L&I has launched a major initiative to return injured workers to their jobs quickly and safely, to increase detection and elimination of fraud and abuse, to improve speed and efficiency of claim processing, to prevent workplace injury and to involve employers earlier and more often in L&I processes.
- The agency also is developing a number of proposed policy and legislative options for the new administration to consider.

Who are the key players/stakeholders?

Business – *Association of Washington Business, BIAW, Independent Business Association, National Federation of Independent Business*; **Labor** – *Washington State Labor Council*; **Others** – *Washington State Trial Lawyers Association*

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