

# Workers' Compensation Reform

## Background:

In the 2011 sessions of the Legislature, two bi-partisan workers' compensation reforms passed which were aimed at reducing workers' compensation costs by improving the delivery of health care in the workers' compensation system and reforming long term disability benefit structures. Specifically, SSB 5801 creates a statewide provider network with minimum standards and best practices for workers' comp health care, while EHB 2123 creates a limited settlement option for certain workers and claims, the "Stay at Work" subsidy program, and a number of other reforms. Taken together, these changes are estimated to save Washington's system \$1.1 billion in Fiscal Years 2012-15, mitigating the need for projected double-digit premium increases.

While 2011 was a watershed year for workers' comp reform, the legislation itself was the product of necessary political compromise, representing much more tentative steps than employers sought. For the employer community, true workers' compensation reform must address issues such as the high incidence and cost of occupational disease claims, and the unfair and unduly complex process for calculating workers' benefit levels under state law. And while the failure of I-1082 (2010) has affected the present political viability of the issue, Washington must come to grips with the unnecessary cost and inefficiency of its archaic public sector monopoly on workers' comp coverage.

## Problem:

Washington job creators have long been challenged by a compulsory workers' compensation system that, among other systems nationwide, is unduly expensive and administratively burdensome. All but the approximately 400 largest employers in Washington have no choice but to purchase workers' compensation coverage from a monopoly state fund, administered by the Department of Labor & Industries, and supported by tax rates that have increased by over 70 percent in the last ten years. These costs are driven in part by the highest benefit cost per covered employee in the nation (\$857), the longest average time loss duration in the nation (289 days), and the largest number of annual pensions awarded in the nation (up to 1800 per year). The 2011 reforms marked a promising first start to addressing these problems, but much more work remains ahead.

## Solutions:

1. Simplify the statutory formula for calculating wage benefits by adopting a flat rate applied to an employee's wage at time of injury, as calculated by a 52-week average.
2. "Right-size" Washington's extremely broad statutory definition and coverage of "occupational disease" by restoring the original intent of the law that the system cover work-related exposures and conditions.
3. Expand the use and administrative simplicity of the new claims resolution settlement option.
4. Enhance appropriate claims management authority for retrospective ratings groups and self-insured employers.
5. Prohibit the diversion of workers' compensation trust funds for non-workers' compensation programs and purposes.