



# BIENNIUM REVIEW

## Employers

### Key changes

- The 2021 session included an expansion of the Paid Family & Medical Leave (PFML) program and further expansions were proposed in 2022, while the 2022 session created a legislative task force on PFML premiums and established an actuary office within ESD due to the current insolvency of the PFML program.
- Workers' Compensation occupational disease presumption for health care and frontline workers during a public health emergency.
- Wage and salary information will be required to be included in job postings.
- **Additional information can be found in the Unemployment Insurance Brief.**

### Background

The COVID-19 pandemic impacted all employers whether or not their business remained open or temporarily had to reduce operations or close. Getting through the pandemic was difficult enough and it will likely take years for many employers to have stable operations with consistent employees.

In addition to the changes made to the unemployment insurance system (see Unemployment Insurance brief), several bills passed impacting the Paid Family Medical Leave (PFML) program, Workers Compensation program, and other employee protections. Although these changes may benefit employees, they will come at a cost to employers and an increase in the cost of doing business which often leads to price increases. And fortunately, several bills that would have negatively impacted businesses and discouraged business expansion did not make it through both the House and Senate.

### Bills

- ✓ [HB 1073](#) (Berry) – **Temporary Paid Family & Medical Leave (PFML) Eligibility.** Provides “pandemic leave assistance employee grants” to certain employees ineligible PFML benefits due to insufficient hours worked. Also provides grants to smaller employers to assist with the cost of an employee taking leave in receipt of a grant. *Passed House 56-42. Signed by Governor. Effective April 21, 2021.*
- ✓ [HB 1097](#) (Sells) – **Antiretaliation Procedures & Orders of Immediate Restraint.** Amends the Washington Industrial Safety and Health Act's antiretaliation provision by explicitly prohibiting acts that would deter a reasonable employee from exercising their rights, and by expanding the time for filing a complaint, authorizing civil penalties, and making other changes. Also establishes statutory procedures for an employer to contest an order of immediate restraint (OIR) and appeal alleged violations of the OIR and authorizes the imposition of daily civil penalties. *Passed House 53-45. Signed by Governor. Effective July 25, 2021.*
- ✓ [HB 1795](#) (Berry) – **Nondisclosure Agreements.** Prohibits nondisclosure agreements between an employer and employee that prohibit the disclosure of conduct that is illegal discrimination, harassment, retaliation, a wage and hour violation, or sexual assault. *Passed House 56-40-2. Signed by Governor. Effective June 9, 2022.*

- ✓ [HB 5097](#) (Keiser) – **Paid Family & Medical Leave (PFML) Expansion.** Expands definition of family member to include any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care. *Passed House 55-42-1. Signed by Governor. Effective July 25, 2021.*
  
- ✓ [HB 5115](#) (Keiser) – **Frontline Employee Workers Compensation During Public Health Emergency.** Creates an occupational disease presumption for frontline employees during a public health emergency for the purposes of workers' compensation. Also prohibits discrimination against an employee who is high risk for seeking accommodation that protects them from the disease or using all available leave options if no accommodation is reasonable. *Passed House 68-30. Signed by Governor. Effective May 11, 2021.*
  
- ✓ [SB 5190](#) (Keiser) – **Health Care Worker Unemployment & Workers Compensation Benefits During Public Health Emergency.** Creates an occupational disease presumption for health care employees during a public health emergency for the purposes of workers' compensation. Also makes health care employees who left work to quarantine during a public health emergency eligible for UI benefits. And provides that misconduct for UI purposes does not include entering quarantine or contracting the disease that is the subject of a public health emergency. *Passed House 84-14. Signed by Governor. Effective May 11, 2021.*
  
- ✓ [SB 5355](#) (Conway) – **Wage Liens.** Creates a statutory wage lien for wage claims by an employee against real and personal property in the state owned or subsequently acquired by the claimant's employer, and creates procedures for establishing, foreclosing, extinguishing, and prioritizing wage liens. *Passed House 51-46-1. Signed by Governor. Effective January 1, 2022.*
  
- ✓ [SB 5254](#) (Solomon) – **Personal Protective Equipment in the Workplace.** Requires employers that do not require PPE to accommodate the voluntary use of PPE by employees, subject to certain conditions. *Passed House 97-1. Signed by Governor. Effective April 26, 2021.*
  
- ✓ [SB 5649](#) (Robinson) – **Paid Family & Medical Leave Study.** Establishes an actuarial office within ESD, creates a legislative task force on PFML program premiums, and requires JLARC to conduct a performance audit analyzing the implementation of the PFML program. *Passed House 96-2; Signed by Governor; Effective June 9, 2022.*
  
- ✓ [SB 5761](#) (Randall) – **Wage and Salary Information.** Requires employers to provide the wage scale or salary range in job postings and to include a general description of all benefits and other compensation. *Passed House 51-46-1; Signed by Governor; Effective January 1, 2023.*
  
- ✗ [HB 1076](#) (Hansen) – **Qui Tam.** Authorizes private citizens (“relators”) to sue on behalf of the government to enforce labor and employment laws in exchange for a portion of the financial award. *Passed House 53-44-1; Died in Senate Ways & Means.*
  
- ✗ [HB 1837](#) (Bronoske) – **Ergonomics.** Repeals a prohibition on L&I adopting ergonomic rules similar to the ones adopted in the early 2000s, which were repealed in 2003 by Initiative 841. *Passed House 50-48; Died in Senate Ways & Means Committee.*
  
- ✗ [HB 1763](#) (Bronoske) – **Recording Independent Medical Examinations.** Allows an injured worker to record of a physical independent medical examination. *Died in House Rules Committee.*
  
- ✗ [SB 5801](#) (Keiser) – **Workers Compensation Appeals.** Changes who is responsible for attorney and witness fees in industrial insurance court appeals. *Died on House Floor Calendar.*