

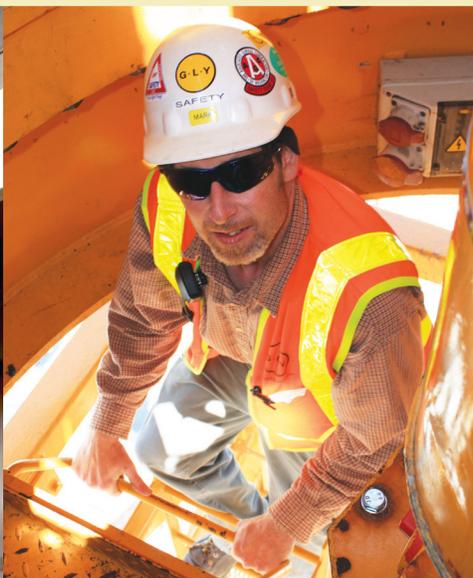


Washington State Department of  
**Labor & Industries**



# Challenges and Change:

*Managing and Innovating through  
The Great Recession — L&I from 2005-2012*





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## Introduction

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During its 91-year history, the Department of Labor & Industries (L&I) has never undergone a more eventful period than 2005–2012. These years were marked by one of the state’s worst industrial accidents, the second worst recession and economic downturn, a voter initiative to privatize workers’ compensation insurance, and the most significant workers’ compensation reforms in the history of the Washington State system.



Workers connect an anchor eye-bar and cable, Sept. 14, 1939.  
*Photo: Washington State Archives.*

The Department of Labor & Industries was formed in 1921 taking over the 10-year-old workers’ compensation program from the old Industrial Insurance Department and also merging in the State Safety Board, the State Bureau of Labor, and several other agencies.

Today, L&I is a diverse state agency with many responsibilities. These include improving workplace safety and health through inspections and education/consultation services to employers; and administering the state’s workers’ compensation system, one of the largest in the country. Workers’ compensation provides insurance coverage for employers and medical, wage-replacement and disability benefits for workers who suffer job-related injuries and illnesses.

The agency also protects public safety and property through consumer-protection programs and manages several programs that provide economic protections, such as helping workers obtain unpaid wages. To make sure everyone competes on a level playing field and to protect businesses and workers who pay their fair share of workers’ compensation premiums, L&I’s makes finding and preventing fraud a priority.

### A Look Back at 2005–2009

The year 2005 began with promise, the start of a four-year period with little or no growth in overall rates for workers’ compensation premiums. In two of those years — 2006 and 2007 — L&I returned more than \$350 million to employers and workers in the form of a rate holiday (partial freeze on premiums) and dividends.

During those years, L&I also added services to its customers— increasing its focus on fraud prevention, creating online services, and controlling medical costs. New legislation provided the agency with stronger tools to recover wages owed to workers, specifically penalty authority and the ability to collect interest for workers.

A desire to help small businesses led L&I to create state government’s first Small Business Liaison. Several other state agencies followed L&I’s lead.



Expanded use of evidence-based medicine and introduction of dosing guidelines for opioid pain medication put L&I in the forefront of innovations to improve patient safety and hold down costs.

During this time, L&I worked with business and labor representatives and industry groups to strengthen safety standards for cranes and safeguard employees who work outdoors in hot weather—while continuing to conduct several thousand consultations and inspections each year. Additional worker protections followed in the years 2010-2012.

### **Impact of the Great Recession**

L&I remained committed to improving customer service even after the recession hit. The agency put more energy into process improvements that reduced costs along with improving service and, in 2009, began to adopt the Lean system pioneered by Toyota. The goal: reduce delays, improve quality and lower costs.

However, by 2009 agency leadership was also directing substantial attention to the workers' compensation system, which was dramatically affected by the recession. With businesses downsizing or closing, and more people out of work, fewer premiums were being paid to the State Fund at a time when liabilities (time-loss claims and pensions) were increasing.

Investment earnings also decreased. Fortunately, Washington's system allowed the flexibility to use funds in the contingency reserve to prevent what would have been substantially larger rate increases in 2010, 2011, and 2012. This calculated risk did not jeopardize benefits; it served to cushion the state's economy from greater harm.

It was clear to agency leadership that changes were needed to address the trends affecting long-term liabilities. L&I brought labor and business leaders together to hammer out the

basis for landmark workers' compensation reforms, championed by Governor Gregoire and successfully negotiated by her—nearly 100 years to the day after Washington became one of the first states to enact a workers' compensation law.

The reform legislation created a new program designed to get injured workers safely back to work and approved a new option for older workers to resolve their claims. A second bill allowed L&I to establish a medical provider network to improve the quality of care injured workers receive by ensuring providers have credentials and use occupational health best practices.

During its first year of operation, one of the new programs, the Stay at Work Program, distributed \$5.5 million in the form of financial incentives to nearly 1,000 businesses, getting 2,500 workers back to work sooner with light duty, transitional jobs.

### **Positioned for the Future**

Throughout the recession L&I maintained its commitment to continuously improve service to customers and hold down costs. Moving forward with key customer initiatives will require effective planning and leadership, and prudent use of resources that are less plentiful than in the past.

The economy's slow recovery means L&I needs to recognize the challenges customers face and be sensitive to their needs—offering flexibility whenever possible, continuing payment plans, and fighting the underground economy that so unfairly impacts honest businesses.

The strategic direction L&I has set and followed over the past eight years puts the agency on a strong footing to meet these challenges. Today, L&I has greater clarity of mission, mechanisms in place to listen and respond to customer concerns, and a commitment to continuously improve and manage costs.

## Safe and Healthy Workplaces

### DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

Preventing workplace injuries, illnesses and deaths is a fundamental role of L&I. The Division of Occupational Safety and Health (DOSH) carries this out in three main areas: workplace inspections, consultations with employers, and education and training services for employers and workers. L&I also works collaboratively with business and labor organizations to advance worker protection.



Washington State's occupational safety and health rules cover cranes for general industry, construction and maritime use.

### A Look Back

The years 2005–2012 saw a number of new worker protections take effect. L&I worked with business and labor representatives and industry groups to strengthen safety standards for cranes and safeguard employees who work outdoors in hot weather. With both advances and tragedies, these years brought renewed attention to the importance of safe and healthy workplaces. Major developments included:

- In 2006, a tower crane collapsed at a construction site in downtown Bellevue, injuring the operator and killing a man in his apartment. The incident added momentum to plans for stronger crane safety rules. Washington took the national lead, passed groundbreaking legislation and implemented a new rule that exceeds federal requirements. It requires all construction cranes to be inspected and certified and all operators to be certified.
- In 2006, the Legislature clarified the statute pertaining to right of entry when L&I conducts safety inspections. RCW 49.17.070 requires L&I to obtain permission from the employer or on-site representative before entering the location. RCW 49.17.075 allows L&I's Director to apply to a superior court for a search warrant authorizing access.
- The 2007 Legislature authorized Washington's Safety and Health Investment Projects (SHIP) Grant Program, which is designed to encourage new approaches to improving workplace safety and health and funded by workers' compensation premiums.
- In 2008, after three heat-related deaths in the preceding three years and considerable stakeholder work, L&I adopted a rule protecting workers from outdoor-heat exposure.



- Following an exhaustive six-month investigation, L&I assessed a record \$2.39 million fine against the Tesoro Refining and Marketing Co. for the April 2010 explosion that killed seven workers at its Anacortes refinery. L&I's investigation found that the incident was preventable, citing Tesoro for 44 willful and serious workplace violations.
- Also in 2010, L&I significantly improved its ability to inspect serious injury accidents by requiring employers to notify L&I when a worker is hospitalized overnight as a result of work-related injuries or illnesses.
- In 2011, the Legislature passed "Abatement during Appeal" legislation requiring employers to correct serious safety and health hazards for which they have been cited, during an appeal unless a stay is granted. Only one other state (Oregon) has a rule requiring abatement during the appeal period.
- In 2011, the Legislature passed legislation regulating the use of hazardous drugs and directed L&I's Division of Occupational Safety and Health to adopt a rule for the safe handling of drugs used in chemotherapy. This legislation was the first of its kind in the nation.

### Impact of the Great Recession

- Prior to the recession, about half of all inspections were construction-related. However, with the decline in construction activity, construction-related inspections dropped to 29% in 2011.
- Inspectors who would otherwise have visited construction sites were redirected to other industries. Some lower-hazard industries — restaurants, for example — had seen few or no inspections in prior years. This caused concerns in these industries that felt they were being targeted. In the case of the restaurant industry, this led to a collaborative effort to address safety concerns in restaurants, such as developing new training materials.

### Major Accomplishments/Results

- In FY 2011, DOSH conducted 5,790 inspections and 2,422 consultations.
- More than 11,000 serious hazards were identified and corrected in FY 2011.
- DOSH increased participation in National Emphasis Programs, focusing on safety and health issues in industries such as chemical plants, nursing homes and metal processors.
- DOSH created more education and outreach tools, including new Web pages focused on industry-specific hazards and seasonal hazards.
- DOSH conducted rulemaking and adopted rules for "Abatement during Appeal" in 2012. Rules to implement legislation on use of hazardous drugs were developed and will take effect in stages beginning in 2013.

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*"I got free advice from L&I consultants who helped me comply rapidly and inexpensively. As a bonus, many of the suggestions have actually helped to lower my cost of production."*

Thomas J. Walz, President,  
Carbide Processors, Tacoma

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### Challenges Ahead

#### Getting to the right places at the right time

With current staffing, DOSH can inspect every Washington business once every 30 years and provide consultation services every 100 years. To maximize limited resources, DOSH will use multiple strategies to identify the highest safety risks and act on them by getting inspectors and consultants to those workplaces.

## Retaining and recruiting experienced staff

During the recession, safety and health staff were more inclined to stay at their public sector jobs, reversing a trend of staff leaving for better paying jobs in the private sector or with a federal or local government agency. However, as the economy

recovers, experienced safety and health staff are once again leaving state service for jobs with starting salaries 25% or even 50% higher. The result is a statewide shortage of experienced safety and health staff due to a limited pool of expertise and lower salaries for state jobs.

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## SAFETY & HEALTH ASSESSMENT & RESEARCH FOR PREVENTION (SHARP)

The research activities of the SHARP Program bring together information from scientific literature, injury and illness data, work site visits, and partnerships with businesses and unions to prevent workplace illnesses and injuries. SHARP has advanced workplace health and safety by conducting numerous research, monitoring and demonstration projects.

### Your Lungs Your Work Your Life:

What you should know  
about work-related  
asthma



In addition to research studies and publications, the SHARP Program also produces educational materials for workers.

## A Look Back

Gathering data, studying the causes behind workplace injuries and deaths, and disseminating that information is what the SHARP Program has done now for over 20 years. SHARP celebrated two decades of service in 2010.

SHARP researchers include epidemiologists, industrial hygienists, safety engineers, toxicologists, ergonomists and experts from other scientific disciplines. They are credited with identifying a host of workplace hazards and offering recommendations to improve workplace safety and health.

Researchers at SHARP have studied everything from construction and trucking to furniture production and agriculture. Their reports have delved into nail-gun injuries, falls from stilts, and lead hazards from firearm firing ranges. Their recommendations have led to new workplace safety rules in Washington State on workplace violence and outdoor-heat exposure and a host of other safety and health recommendations.

## Major Accomplishments/Results

- SHARP is an international leader in the study of work-related musculoskeletal disorders and use of ergonomics in multiple industries to prevent these disabling injuries.
- SHARP partnered with the trucking industry to develop the innovative TIRES (Trucking Initiative Reduction Emphasis) project to influence and educate truck drivers and trucking



employers about safe practices. TIRES uses multiple methods, including YouTube, a TIRES blog, Twitter, industry-sponsored events and unique safety posters.

- For the Safe Patient Handling project, SHARP studied existing literature and workers' compensation claim data and visited health-care facilities to evaluate the impact of patient handling on health-care workers and the successes and barriers to safe-lifting programs.

- In 2011, a SHARP Program study of DOSH enforcement and consultation activities found that these activities make a significant contribution to reducing claims rates and costs.

## Challenges Ahead

Workers continue to be at risk from known and emerging hazards. For example, SHARP is currently working on a hazard alert to inform employers of the risks from exposure to methylene chloride, a substance used to strip the finish from bathtubs.

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## INJURED YOUNG WORKER SPEAKERS PROGRAM

Statistics show that young workers are more likely to be injured on the job than adults, especially when they are new to the world of work. Despite this fact, parents and young workers tend to assume that “working” is safe. The goal of the Injured Young Workers Speakers Program is to raise awareness among teens that safety is never a given.



Matt Pomerinke of Longview was just 21 and working at a paper mill when his arm was caught in an unguarded conveyer drive chain and amputated just below the elbow.

### A Look Back

The Injured Young Workers Speakers Program began as a five-school pilot in 2008 that was modeled on a successful British Columbia program. L&I's three initial speakers were all from the Canadian program. In 2011, L&I added a Washington-based speaker.

### The approach

The presentations use a compelling “peer-to-peer” approach that has demonstrated effectiveness in reaching young workers. The speakers are younger and they experienced a catastrophic work injury—loss of a limb or paralysis—when they were teenagers. The speakers begin their presentation with a 15-minute DVD that shows graphic reenactments of four actual workplace accidents involving teens.

The speakers then give the students a first-hand account of what it means to live through a serious workplace accident. Students come to understand the profound, life-altering impact the injury has on the speaker as well as family, friends, co-workers and employers.

## Impact of the Great Recession

Teen employment dropped sharply during the recession and continues to lag behind pre-recession numbers. However, the number of 16- to 19-year-olds employed nationwide in the summer of 2012 was roughly double that of 2011. Even with a slow recovery, new teens enter the workforce every day. Whether teens work during high school or obtain employment after schooling, the Injured Young Worker Speakers Program conveys a relevant message.

## Major Accomplishments/Results

The number of participating schools and students reached has grown each year, with a total of more than 13,000 students by mid-2012. Students sit riveted as speakers powerfully describe the impact a work-related injury can have on a young person's life. Their reactions during the presentation and follow-up questions show how fully the message has penetrated. Post-presentation questionnaires confirm it.

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*"The presentation was fantastic. Students were engaged and focused. They saw the reality of what can happen on the job and how important it is to be safe...."*

*Micah Arneberg, Business Teacher  
and Work Site Learning Coordinator  
Mt. Tahoma High School, Tacoma*

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## Change in Awareness

Quarter	Before	After	Change
Q1	42%	76%	+34%
Q2	35%	59%	+24%
Q3	19%	49%	+30%
Q4	24%	48%	+24%
Q5	22%	43%	+21%

Overall Change in Awareness: 77% significantly raised.

Starting in 2011, speakers began making presentations, as time allowed, to a handful of companies and also presented at occupational safety and health conferences in Washington and Oregon.

## Challenges Ahead

Demand for presentations is exceeding speaker availability. In order to sustain and grow the program, L&I needs to identify new Washington-based speakers. This is challenging. It takes a special person to be willing to recount repeatedly a painful, traumatic and life-changing experience. That willingness also needs to be coupled with strong presentation skills.

It also may be necessary to expand the scope beyond young workers, developing new speakers who can present to current employees of different businesses seeking a dynamic presenter for their safety program, and concentrate the young speakers on schools and skill centers.

# Workers' Compensation Program

Washington's workers' compensation system is 101 years old and has witnessed many changes. However, the years 2005 through 2012 have seen unprecedented financial volatility and historic reform.



Safe workplaces prevent injuries. But when they occur, workers' compensation protects both workers and employers from the resulting costs.

## Overview

L&I administers Washington's workers' compensation (industrial insurance) program, which is the sixth largest in the country. "Workers' comp" pays medical expenses for workers who suffer work-related injuries or illnesses, and when they are unable to work due to these conditions, partially replaces their lost wages. In some cases, injured workers are entitled to permanent disability awards and vocational assistance.

L&I's Insurance Services Division administers the workers' compensation program. Staff in this division assess premiums, provide employer account services, manage claims, pay health-care providers, manage medical costs, perform actuarial analysis and provide oversight of self-insured companies.

Washington is one of four states with an exclusive State Fund. With the exception of several hundred large companies that self-insure, Washington employers must purchase workers' compensation coverage through L&I. L&I's goal is to keep premium rates fair, stable, and at the lowest level possible while maintaining the solvency of the State Fund.

## Impact of the Great Recession

Setting rates in any economic environment can be hard. In good times the contingency reserve grows and the business community wants premium dollars back. In tough times incoming premiums shrink as work activity slows and liabilities grow. Reserves are drawn down and it's a struggle to keep rates low — knowing that this is a time when businesses can least afford to pay high premiums. While actuarial calculations provide guidance for rate decisions, setting rates is a balancing act of competing priorities and it can be a no-win situation.

The same economic factors that affected Washington's businesses during the Great Recession affected Washington's workers' compensation program and workers' compensation insurers nationally. With more businesses downsizing or closing, and more people out of work, fewer premiums were being paid to the State

Fund at a time when liabilities (time-loss claims and pensions) were increasing. Investment earnings also decreased during this time. L&I and workers' comp insurers across the country sustained high loss ratios.

The recession also affected the Supplemental Pension Fund. This fund provides cost-of living adjustments (COLA) to injured workers and their dependents receiving disability or pension payments. The law requires this fund to operate on a current payment basis. The fund experienced a shortage due to the recession and the resulting reduction in premiums collected.

In order for the Supplemental Pension Fund to meet cash flow needs and make COLA payments, L&I took the unprecedented step of initiating five short-term loans totaling \$105 million from the Pension Reserve Fund. The loans occurred from April 2010 to April 2011 and were repaid.

In the five years before 2009 rates had declined, stayed unchanged or saw small increases. Averaged over this five-year period, rates increased only 1.6%. With over \$2 billion in the contingency reserves, L&I was able to return more than \$350 million to employers and workers in the form of a rate holiday and dividends in 2007 and 2008. The rate holiday meant that employers and workers did not pay the Medical Aid Fund premium for work performed from July 1 through Dec. 31, 2007. Unfortunately, despite the high-quality conservative nature of our investments, the State Fund's portfolio lost \$1 billion in 2008 due to the market collapse.

In 2010, L&I had to raise the overall rate by 7.6%. While not unprecedented, it was the first large rate increase in more than five years and it hit businesses as they struggled to stay afloat. Then in 2011, faced with needing a 17.8% increase to breakeven, L&I raised the overall rate by 12%.

## Average Rate Change 2005–2012

Year	Rates
2005	3.7%
2006	0% change
2007	2% decrease, plus a six-month rate holiday in which \$315M was given back to employers
2008	3.2% increase, and \$36.5M returned to employers
2009	3%
2010	7.6%
2011	12%
2012	0% change

## Managing through the Great Recession

L&I took aggressive steps to keep workers' compensation premium rates stable and predictable while keeping the workers' compensation trust funds sound. In 2009, 2010 and 2011 L&I used the contingency reserve to offset premiums in order to keep rates as low as possible and help businesses, while balancing our fiduciary duty to protect the solvency of the trust funds.

Since 2009, with the economy in recession and then faced with a long, slow recovery, L&I used \$332 million from the State Fund reserves to partially fund premiums for employers and workers and hold down rates and help business save jobs.

In September 2009, L&I announced the breakeven rate for 2010 was 19.4%. The breakeven rate is the amount of money that L&I estimates is needed to cover costs in a given accident year. However, L&I proposed a 7.6% rate increase in order to help workers and businesses in the throes of the recession. While the average 7.6% rate increase in 2010 was a hardship, the breakeven rate of 19.4% raised questions about the long-term sustainability of the workers' compensation system. And the pressure of struggling to stay in business caused many employers to look at the cost of workers' comp insurance and question whether a competitive insurance market would reduce costs.



This led to Initiative 1082 which would have allowed private insurers to compete in the workers' compensation (industrial insurance) market in Washington State. Initiative 1082 was defeated in every county. Although the initiative was defeated, the months leading up to the election brought out negative comments about L&I and the services it provides. Through these months, L&I employees kept their attention on their work and stayed above the political fray.

### Accelerated Change

As L&I prepared the 2011 rate proposal in the fall of 2010, it announced a 17.8% breakeven rate, but again used its reserves to bring down the rate proposal to 12%. With the costs of workers' comp insurance going up and the state's economy still in the doldrums, the department prepared a reform package for Governor-request legislation. The reforms balanced reducing costs for rate payers and improving outcomes for injured workers.

No significant reforms had been enacted since 1971. A sustainable workers' comp system would require major changes and, without the pressure from the financial crisis, these reforms might not have been enacted. The reforms passed in 2011 are expected to save \$1.2 billion over four years and will put Washington's system on a sustainable path. They are discussed in more detail on Page 13.

### Transforming L&I

The weakened economy also intensified efforts already under way at L&I to increase efficiency and reduce cost. While reducing costs, implementing Lean in 2009, and improving customer service are agencywide priorities, particular attention has been paid to the workers' compensation program. Good stewardship of the State Fund is critical to the long-term sustainability of the system and the value employers and workers expect from their insurance coverage. Reducing the incidence of long-term disability, which some of the reforms speak to, is also being addressed through continuous operational improvement within L&I.

For example, over the period 2005 to 2012, L&I's leadership has managed investments carefully, used new strategies to manage medical costs, expanded online services, and increased the use of occupational health best practices. Cost-cutting measures, re-engineering the claim filing process and fighting fraud have been a major focus. L&I also continues to fill a leadership role in encouraging the best possible care for injured workers. A number of examples follow.

### Investment Policy Strategy

Yield on investments is an important part of the income base that supports the State Fund. In early 2008, before the mortgage debacle in the fall, L&I followed recommendations from the Washington State Investment Board and L&I's investment advisor, Conning Asset Management, and sold about a billion dollars of equities and bought treasury inflation-protected securities (TIPS). This change reduced L&I's equity market exposure, avoiding an additional \$300 to \$400 million in losses when the market collapsed.

### Financial Reporting

Recognizing that sound financial reporting and transparency were key to integrity, L&I's chief financial officer led a five year effort to improve the credibility and transparency in its reporting of the Insurance Services trust funds. In April 2011, the Government Finance Officers Association of the United States and Canada awarded its Certificate of Achievement for Excellence in Financial Reporting to L&I for its Comprehensive Annual Financial Report (CAFR). The CAFR is an overview of the financial state of workers' compensation funds L&I administers. During that same five-year period, the State Auditor issued an unqualified (clean) opinion on the program's basic financial statements.

### Medical Cost Containment

L&I is a national leader in health-care cost containment. The agency's medical costs are 26% less than the average workers' comp program in the United States, and its cost growth trend is

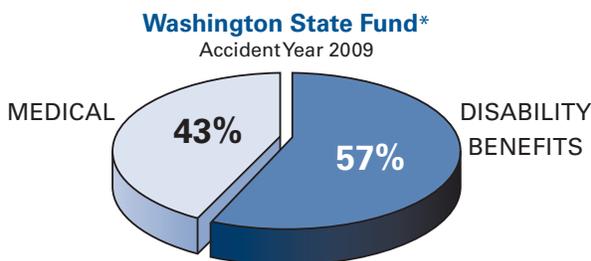
below 4%. Evidence-based coverage decisions have reduced unnecessary care and avoided \$27 million in annual costs.

Prescription drugs play a major role in health-care costs, and L&I's drug costs are 40% lower than the national average due to the use of a preferred drug list, and requiring generics first (now 90% of all prescriptions).

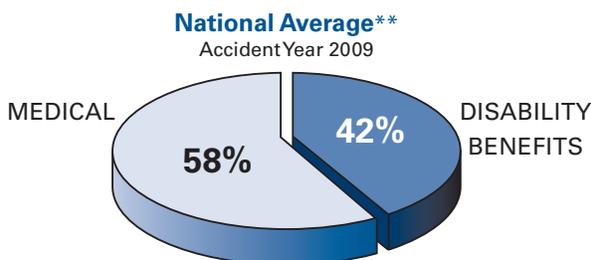
In addition, L&I's community-based Centers of Occupational Health and Education, an early "medical home" model, has demonstrated a 20% reduction in the number of days on time loss and lower claims costs.

## L&I's Medical Costs as Compared to the Average National Workers' Comp Program

*Medical Losses as a % of Total Losses*



*L&I's medical costs are 26% less than the average workers' compensation program in the U.S.*



\*Discounted as of 12/31/11, excluding Supplemental Pension Fund

\*\*Source: NCCI 2010 Annual Issues Symposium Presentation

## Retrospective Rating

Retro is a voluntary financial incentive program offered by L&I. Employers can earn partial refunds of their workers' compensation premiums if their claim costs are lower than expected.

In response to concerns about fairness and equity in the distribution of "Retro" refunds, the 2007 Legislature directed L&I to analyze the decades-old Retrospective Rating (Retro) Program and determine if it was achieving its intended goal of workplace safety, return-to-work for injured workers, and reduced losses for the State Fund. With the advice of business and labor representatives and independent consultants, L&I undertook a methodical review of Retro.

In general, the review confirmed that the Retro Program was in fact working as intended — rewarding employers and Retro groups who pay attention to safety and bring workers back to work as soon as possible. Retro employers have lower claims costs, which keeps costs down for all State Fund employers and workers, not just those participating in Retro.

The review also found a couple of things that inflated refunds for Retro employers. Those things had to be corrected immediately, which reduced overall refunds. Over the last three years, L&I adopted new rules to ensure fairness and transparency, modernize the 30-year-old program and supporting technology, and give employers more choices and flexibility. Those changes took effect Jan. 1, 2011. Retro participants will see their first refunds (or assessments) under the new plan beginning in October 2012.

Washington has the largest Retro program in the country and is the only state where groups of businesses are rated as a single Retro insurance policy. Currently, about 8% of all State Fund employers are enrolled in Retro, covering 42% of the total State Fund premium (approximately \$765 million of \$1.82 billion).



## Opioid Usage

L&I has been at the forefront of efforts to improve the safety and effectiveness of medical treatment using narcotic pain-relievers, or opioids. In the early 2000s, L&I's medical director, Dr. Gary Franklin began seeing a troubling number of deaths among workers with back injuries who had been taking the powerful pain relievers, sometimes for years. In addition, in just a few years, average doses of opioids had increased by more than 50%, as had the percentage of injured workers being treated with them.

In 2006, Dr. Franklin worked with Dr. Jeffrey Thompson, now medical director for the Health Care Authority, to bring together pain specialists from around the state to discuss the emerging risks. A guideline published by the Washington State Agency Medical Directors' Group created ripples nationally by including a "yellow-flag" recommendation: If patients on large doses were not improving, doctors were urged to refer them for evaluation. The guidelines' principles influenced 2010 legislation designed to improve doctors' skills at treating chronic pain (Engrossed Substitute House Bill 2876). The state's new law has drawn national attention.

L&I has moderated long-term prescribing of opioids for injured workers through education and by monitoring payments for long-term prescriptions. Doctors who continue to prescribe opioids after the acute phase of medical treatment are asked by claim managers to confirm the necessity and effectiveness of the treatment.

## Early Claim Solutions, Lean and Performance Assessments

The goal of Early Claims solutions is to reduce delays at the very beginning of the claims process, allowing telephone and Web-based claim filing. Doing so helps injured workers recover and return to employment as soon as safely possible, avoiding long-term disability and reducing costs for their

employers. In fact, studies show injuries reported within two weeks are 18% more expensive than those reported within one week, while injuries reported between the 4th and 5th week are 45% more expensive.

Part of this effort has been streamlining the intake process for new time-loss claims. L&I has changed how Claims Administration assigns specialized services, such as early return-to-work or safety consultations, to benefit both workers and employers. These changes include greater attention to coordination among workers, providers and employers and are based on best practices from the Centers for Occupational Health and Education.

Lean projects within the Claims area are reducing processing time and saving money. For example, new workers' compensation claim managers go through rigorous in-house training. After applying Lean problem-solving methods, L&I discovered duplicate steps in training, including wasted time entering data in several places to verify the accuracy of the new staff's work. The redesigned process eliminated duplicate steps and redirected the trainers' time to provide more one-on-one coaching. The change resulted in \$225,035 savings per year in staff time.

Another project under way is a major effort to increase the Ability to Work Assessments (AWAs) closed in 90 days from 13% to 50%. An AWA is used when an injured worker is unlikely to return to work with the same employer and L&I needs to address the workers' ability to work before closing the claim. L&I uses the services of vocational counselors to provide these assessments. Reducing the average duration of an AWA could result in \$20 million in annual savings.

In late 2011 and through mid-2012, L&I conducted performance assessments and gathered input from staff and customers. As

L&I implements reforms, the agency is setting performance targets that will further improve claim assignments, lead to standard medical management and claim handling, allow custom claim coordination, and improve performance and accountability.

## E-correspondence launching in 2013

The groundwork for E-correspondence occurred over several years as medical providers in particular felt overwhelmed by “courtesy copies” L&I mailed to them. L&I is required by law to mail a copy of every legal notice and correspondence to all three parties in each workers’ compensation — the provider, the employer, and the injured worker.

In 2013, due to legislation passed in 2011, L&I will offer an “electronic” correspondence option that will significantly reduce paperwork for those who choose this option. In addition to providing better service and saving trees, this option will significantly reduce printing, postage, handling costs. For health-care providers alone, those costs exceeded \$1 million in 2009.

## Implementing the 2011 Workers’ Compensation Reforms

This effort started with Governor Gregoire and L&I’s Director bringing business and labor together to begin discussions about possible reforms. The concept of the Provider Network was a result of this workgroup. The other reform components, also seeking ways to reduce disability and costs, were developed by the department in consultation with the Attorney General’s Office. Through the Governor’s leadership as chief negotiator the legislative leaders eventually endorsed the reforms which were subsequently passed.

These reforms are described below.

## Stay at Work (EHB 2123)

Stay at Work is a new financial incentive that encourages employers to bring their injured workers quickly and safely back to light-duty or transitional work. Eligible employers can be reimbursed for 50% of the base wages they pay to the injured worker and for some of the cost of training, tools or clothing the worker will need to do the light-duty or transitional work.

The purpose of the program is to encourage more employers to return their injured workers to light-duty or transitional jobs with the doctor’s approval. This medical best practice can help the worker recover, and it also can reduce costs for the employer.

Stay at Work launched January 10, 2012. L&I had reimbursed more than 1,000 employers with \$5.5 million by July 31, 2012, and helped more than 2,500 injured workers remain on the job and working.

### STAY AT WORK SUCCESS

*Eric Ferre, employed by Seaport Steel*

Eric smashed his finger while moving a massive steel plate on the job. The injury required stitches and left him unable to work the crane. Toting a light-duty job description from his human resources manager, Fern Shumway, Eric talked with Dr. David Hoffman, at the nearby U.S. HealthWorks occupational medicine clinic. Together, Eric, his doctor and his employer worked out modified duty. The Stay at Work Program saved Seaport Steel money, and Eric too — he didn’t miss a regular paycheck. Best of all, a valued employee stayed on the job, not isolated at home.



### Structured Settlement Program (EHB 2123)

The 2011 Legislature recognized that controlling pension costs was vital to a financially sound workers' compensation system for employers and workers. The Legislature also recognized that certain workers would benefit from an option that allows them to resolve their claims through a structured settlement and authorized a program to make this option available to injured workers age 55 or older. (By 2016, the age requirement drops to 50.)

Structured settlement allows injured workers, employers and L&I to resolve future benefits except medical, which remains available on the claim, when appropriate. The worker is paid a set amount in periodic payments, which are spelled out in the agreement.

As of September 2012, the BIIA had approved 12 State Fund structured settlement agreements and two self-insured agreements. Another 203 applications did not lead to a final agreement because the worker, employer or L&I declined to pursue the option after further consideration.

### SUCCESSFUL STRUCTURED SETTLEMENT

One injured worker used his settlement funds to pursue his dream of owning a business. He couldn't return to his old job due to the injury but he had a lot of experience in his line of work. With his settlement funds, he was able to secure a place of business and inventory. L&I staff works hard to find creative ways to better serve workers throughout the settlement process. In this case, settlement staff arranged for the worker to meet with an L&I vocational specialist and small business liaison to discuss his business plan and provide other start-up assistance.

### Provider Network (SSB 5801)

L&I's goal is for workers to have broad access to quality care, and to return sooner to good health and their jobs. Creating a provider network gives L&I the opportunity to continuously educate providers on treatment guidelines. These guidelines and administrative procedures that encourage timely access to medical care are designed to get workers back to work.

**Watch for information from L&I – care for injured workers is about to change.**

**We want you to be part of our new medical provider network.**

- Please read the information inside.
- Watch for your invitation in the mail in 2012.
- Stay informed by receiving our e-newsletter. Sign up at [www.Lni.wa.gov](http://www.Lni.wa.gov) (search for "provider listserv").

**Medical Provider Network**  
Workers' Compensation  
**REFORMS**

Washington State Department of Labor & Industries

The network, effective Jan. 1, 2013, will be made up of attending providers that meet standards similar to those required by other large health insurers in the state. For the first visit, injured workers can see a provider that is not participating in the network. However, workers will need to choose a provider in the network for ongoing care.

Those required to be in the network include physicians, chiropractors, naturopathic physicians, podiatric physicians and surgeons, advanced registered nurse practitioners, physician assistants, dentists, and optometrists. Out-of-state providers and provider types such as physical therapists and massage therapists will be invited to join later. Until then, they can continue to treat injured workers.

In 2013, L&I will further encourage the use of occupational health best practices by creating a top tier of providers. Providers in the top tier will be eligible for financial and non-financial incentives (such as streamlined authorizations) for using best practices. Examples of best practices include submitting accident reports to L&I within two days and calling employers to talk about light-duty jobs for recovering workers.

### **Expanding Centers for Occupational Health and Education (COHE) (SSB 5801)**

COHEs are health-care delivery organizations, such as clinics and hospitals that help health-care providers coordinate care and use occupational health best practices to treat injured workers. Research has shown that injured workers get well and return to their jobs sooner when they are treated by a health-care provider skilled in occupational medicine – and the COHEs are a key strategy for increasing skills in occupational medicine.

Currently, there are four COHEs in Renton, Spokane, Everett and Seattle that provide support to more than 1,500 health-care providers and 27,000 injured workers each year. By July 2013, L&I will expand COHEs to at least six sites. L&I plans to extend COHE access to all injured workers by December 2015.

### **Prior Disability Awards (EHB 2123)**

Benefits for prior permanent disability awards paid to a worker are now deducted from the worker's pension award. In addition, interest on the unpaid balance of partial disability awards is no longer paid.

### **Cost-of-Living Adjustments (COLAs) (EHB 2123)**

The cost-of-living increase for July 2011 was eliminated. Long-term disabled workers were again entitled to annual COLAs starting July 1, 2012. This change affected the cash-funded, pay-as-you-go Supplemental Pension Fund.

### **Rainy Day Fund (EHB 2123)**

One main goal of the State Fund is to protect employers from unpredictable rate increases, particularly during difficult economic times. The Rainy Day Fund directs the transfer of workers' compensation funds whenever the reserves are greater than 110% of liabilities unless otherwise directed by L&I's Director. These funds would be available to reduce rate increases during economic downturns or when liabilities unexpectedly increase.



## Fraud Prevention and Compliance Program

The Fraud Prevention and Compliance Program, often simply called the Fraud Program, is an umbrella program that includes the Detection and Tracking Unit, Employer Audit, Investigations, Collections, Provider Fraud, Significant Cases, Firm Appeals and program administration.



*"The L&I fraud team understands the stakes are higher now than ever before, and they play to win the war for the law-abiding citizens of this state."*

Craig Munson, owner,  
Seattle Floor Service

### A Look Back

When L&I held a series of stakeholder meetings, both business and labor representatives said their biggest concern was fraud, and they pushed for the agency to do a better job fighting it.

L&I responded. Following passage of key legislation that bolstered L&I's fraud-fighting ability, the director consolidated a number of units into the Fraud Prevention and Compliance Program in 2005. While several of the units existed before, some like the Detection and Tracking Unit and the Significant Cases Unit, were new.

Much progress occurred in 2005 and 2006 as L&I built up its program and began working closely with other state and federal agencies to detect various types of fraud. These included workers collecting benefits while working, medical providers overbilling for their services, and employers operating in what has been called the underground economy (employers avoid paying workers' comp premiums by misclassifying workers, failing to report their workers or otherwise cheating the system in order to cut their costs and undercut their competition).

Fraud detection has continued to be a priority over the past eight years. Advances in three major areas have contributed to significant return on investment. (See table on Page 18.)

- **Using staff and technology effectively.** Examples include:
  - Using state-of-the-art software for statistical analysis to detect fraud and send auditors to businesses where premiums are most likely to be owed.
  - Making collections faster using automated telephone software to contact those who owe L&I money.
  - Providing an Internet tool for contractors to easily determine the workers' compensation premium status of their subcontractors and conducting workshops to educate contractors on their premium liability.

- **Employing cross-program referrals and cross-agency data matching** to identify and evaluate potential fraud. For example, L&I's Construction Compliance inspectors are key to notifying fraud investigators of contractors who may not be reporting their employees. This collaboration has helped the Fraud Program go after unpaid workers' comp premiums by suspending the contractor registrations of those not paying premiums.
- **Preventing and deterring fraud** by making it easier for the public to report fraud online or by calling a toll-free telephone number, using social media such as a blog and Twitter feeds, issuing news releases on major cases, and presenting workshops to help employers understand reporting requirements.

## Impact of the Great Recession

The Great Recession gave the Washington business community a brutal beating. By 2009, employers struggled to keep pace with payroll, inventories, and taxes. L&I's Collections staff saw numerous employers with previously good payment histories fall behind in their workers' comp premiums to the point of delinquency. In 2009 alone, 13,000 employers were delinquent on their accounts. Of those, 60% had held accounts in good standing for many years previously.

## L&I establishes Employer Assistance Program

To help support these struggling employers, L&I created the Employer Assistance Program (EAP), which continues to offer business owners a hand in tough times. Through the program, L&I offered employers who had not been in collections in the last four years "90 days same as cash" options to pay premiums without any late penalties or

interest. The same plan was offered to businesses owing less than \$5,000. L&I also waived penalties and interest on late premiums for businesses suffering revenue drops in excess of 30%.

There were 5,716 active payment agreements at the end of FY 2009. That climbed to 6,267 in FY 2010. As of June 30, 2012, EAP was helping 7,409 employers.

## Solid foundation to fight the underground economy

By the time the recession hit, L&I's Fraud Program was fully established, using technology effectively, working collaboratively with other agencies, and geared up to fight the underground economy. The agency was well-positioned to fight for honest businesses being undercut by those who failed to pay their fair share.

## Major Accomplishments/Results

Over the past eight years, L&I has made steady strides to detect, investigate and respond to fraud. At the same time, outreach efforts helped honest employers understand the reporting requirements involved in the state workers' compensation system.

Just a few of the major accomplishments:

- Developed the Detecting Unregistered Employers technology to flag businesses that fail to register with the state and pay workers' comp premiums.
- Achieved a 100% success rate in the 150 fraud cases forwarded to prosecutors for prosecution since 2006.
- Improving how firms are identified for audit resulted in 80% of the employers referred for audit actually owing premiums, compared to 40% in 2005.



- Joined with other state agencies to create **suspectfraud.com**, a website to encourage the public to report cases of suspected fraud and raise awareness of the problem.
- Operated so efficiently that the program now recovers more than \$790 for every \$1 invested in fighting fraud.

### Return-on-Investment



### Challenges Ahead

Systems for detecting fraud must evolve to match the efforts of those who would cheat and seek to gain a leg up on their competitors and other honest business owners.

At the same time, L&I must balance the need to help business owners whose problems stem from economic factors, and not willful deception.

Certain regulations can be confusing to the average business owner. For example, each year, hundreds of employers find they have misclassified their employees as independent contractors. L&I hopes to clarify these confusing regulations either through legislation or improved agency communications.

Finally, L&I must maintain the relationships built with the labor and business communities, state agencies such as the Department of Revenue and the Employment Security Department, and federal agencies such as the IRS and the Labor Department. All have the same goal in mind – eliminating fraud in the system to keep it healthy and provide a level playing field for business.

## Economic Protection

### EMPLOYMENT STANDARDS

In essence, this program serves as a consumer protection agency for Washington's wage earners. Examples:

- A dishwasher working for a struggling café arrives one day to find the place shut down. His \$547 paycheck had been due the next day, but the owner can't be found.
- Three migrant workers are hired by a small farm to finish a cherry harvest. They're each owed \$312 for four days work, but the owner has been putting them off for two weeks.
- A temporary office worker is hired to help a start-up company set up a new office. But after two weeks, the owner says she'll be paying in ownership shares and the company's value is about to take off.



Amy Clancy is a Consumer Investigator/Investigative Reporter for KIRO 7 Eyewitness News. She has reported on L&I investigations to warn workers about unscrupulous employers.

In any of these cases, the worker would have the right to file a wage complaint, L&I would investigate and its collection arm would try to recover any wages due. In 2011 alone, the program returned \$2 million in unpaid wages to 2,000 Washington workers.

Besides carrying out state and federal laws that protect workers' wages, the program's 17 field investigators work to protect working conditions, and enforce teen worker and child labor laws. It also investigates complaints from employees who claim they were denied their right to protected leave time — time off for family care, domestic violence, or for a military spouse. Finally, it administers Washington State's requirement (passed by a voter initiative in 1998) to tie the state's minimum wage to inflation during the preceding year, as measured by the Consumer Price Index.

### Impact of the Great Recession

Just-in-time wage protection law: When the worst of the recession hit our state in 2009, this program was well-positioned to help thousands of Washington's most vulnerable workers. L&I's earlier work with the Governor, labor, and business successfully pushed through passage of the 2005 Wage Payment Act.

Washington's new law was a game-changer. Before that, "Our program didn't have the enforcement teeth it needed to actually cite and penalize employers who didn't pay," said L&I Program Manager Elizabeth Smith. "All we could do was try to work with the employer, encourage the worker to go to small claims court, or in rare cases, file in Superior Court on behalf of a group of unpaid workers, which was very expensive. The Wage Payment Act changed all that."



Now the program can cite and penalize non-paying employers and collect and return unpaid wages to workers. In fact, between FY 2007 and FY 2012, the program was able to collect and return \$12.5 million in unpaid wages to 9,930 workers — an average of \$1,200 per worker.

To the typical low-wage earner, that can mean the difference between paying the rent or losing a place to live — having food for the family, or not.

Now, as the state slowly recovers from the recession, L&I continues to receive worker complaints. Because jobs are scarce, more workers are willing to accept jobs that might not pay as reliably, work “under the table,” or hold out for an employer who promises future pay. It’s a new reality that has made the Employment Standards Program an important safety net for many Washington workers.

### Minimum wage stays steady during recession

In 2010, for the first time since a minimum wage initiative passed in 1998, the Consumer Price Index decreased in the previous year. Because the law does not allow a decrease, the minimum wage stayed the same for two years. By the next year, the CPI had climbed 1.4%, but not enough to push it above where it was two years before, when last increased. Should the minimum wage be raised? Or not? L&I considered a number of legal opinions before concluding that an increase in the minimum wage was the correct legal interpretation.

## Major Accomplishments/Results

### Lean project success

The effect of the Wage Payment Act, combined with the heightened public need, meant Industrial Relations Agents were delivering significantly more citation recommendations to L&I headquarters, an average 50–60 per month.

But success sometimes brings challenges of its own. The program had a sudden need to process those recommendations so legal notices could be sent to employers, and, in many cases, so collections actions could begin.

The program launched a promising Lean project that studied how it might speed up processing.

“The faster we get these citations issued, the more successful we can be at collecting unpaid wages for these workers,” said Smith. “The older the case is, the harder it is to collect.”

“We’re all about customer service,” said Carlena Anderson, the industrial relations agent charged with processing and finalizing all recommended employer citations. “And we’re dealing with a lot of down-and-out people. It really pulled on my heartstrings when they called to check on their complaint and I couldn’t help them right away. Our process was too far behind.”

Within six months, Employment Standards found a more efficient way to act on incoming field recommendations. Its turnaround time dropped by 67%, from 65 to 21 days. In 2011, the program successfully returned \$2 million in unpaid wages to 2,000 Washington workers.

### A balance of worker and employer rights

While the Wage Payment Act is clearly a help to workers, L&I believes fairness to businesses is an accomplishment as well. In developing the new law, it earned the support of businesses by ensuring that once a worker accepted the payment of wages, he or she couldn’t take other legal action against the employer for the same complaint. When a dispute cannot be worked out, L&I either issues a citation asking the employer to pay the wages or determines that the employer does not owe wages. Additionally, L&I waives penalties if an employer pays the back wages within 10 days of receiving a citation.

## Challenges Ahead

### Independent contractor or employee?

In an economic meltdown, there can be great economic pressure to classify workers as independent contractors. In doing this, the employer believes he is relieved of the obligation to pay workers’ compensation premiums and other worker benefits.

As a result, from 2009 on, there was increasing disagreement over the definition of a worker who is *employed* by another, versus a worker who is *independently contracting* for work as a business.

It's been a tough issue for this program.

"Independent" workers are often paid for piece work and work temporary or short-term jobs, making it hard to determine whether a worker is being paid the minimum wage for each hour worked. Also, companies who call some or all of their workers "independent" often will underbid companies who have employees and pay them proper benefits.

## Collecting the wages

The Employment Standards Program now can track down and cite more non-paying employers than ever. The program must also coordinate with L&I's collections arm to actually collect the wages.

But, thanks to L&I's enhanced Fraud Prevention and Compliance Program and that program's Collection team, Employment Standards has more help than ever collecting those unpaid wages.

What's more, L&I's efforts to protect workers from non-paying employers has not been lost on the news media in the Pacific Northwest. KIRO TV's consumer reporter, Amy Clancy, has reported on L&I investigations to warn workers about unscrupulous employers.

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## PREVAILING WAGE

The state's Prevailing Wage Act is a worker protection law that governs how contractors pay workers on public works projects and for public building maintenance. They must pay the same hourly wage, benefits and overtime paid to the majority of workers in each trade in a given county. Passed in 1945, Washington's law is modeled after the federal Davis-Bacon Act designed to preserve local wage standards.

Prevailing wage requirements apply to construction, alteration, repair or improvement of public property, as well as to private property that is at least 50% rented, leased or purchased by one or more state agencies or municipalities.

### WHAT IS PUBLIC WORK?

Public work is all work, construction, alteration, repair or improvement that is executed at the cost of the state or any other local public agency. This includes, but is not limited to, demolition, remodeling, renovation, road construction, building construction, ferry construction and utilities construction. RCW 39.04.010.

Prevailing Wage, a small section within L&I's Specialty Compliance Services Division, establishes more than 10,000 prevailing wage rates for construction trades in all 39 Washington counties. Every year the program processes more than 90,000 Intent and Affidavit forms, investigates complaints to ensure compliance with prevailing wage requirements, and provides more than 30 training sessions to over 2,000 contractors and contract awarding agency personnel in an effort to promote prevailing wage compliance.

### Impact of the Great Recession

The recession has increased many challenges for L&I. Some employers try to save money by manipulating prevailing wage and benefit payments. At the same time, the tough economy means

employees have been reluctant to file complaints for fear of losing their jobs.

A growing problem for L&I is employers who misclassify their employees as independent contractors in an effort to avoid paying them prevailing wage rates for public work, and to avoid other costs associated with employees, such as social security and workers' compensation premiums.

In addition, the Prevailing Wage section is seeing an increased frequency of employers who, when caught violating prevailing wage requirements, go out of business and set up a new company or series of new companies while engaging in the same illegal behavior.

## Major Accomplishments

Since 2005, L&I has conducted more than 45 statewide wage surveys to establish prevailing wages for public works projects, and has instituted a strong outreach effort to ensure that agencies and businesses know how to comply with prevailing wage reporting and wage payment requirements. In FY 2012, the program investigated and closed nearly

400 complaints and returned nearly \$1.4 million to Washington workers who were being underpaid.

One of the programs biggest success stories involved King County's Brightwater project – construction of a 13-mile conveyance tunnel lined with massive concrete tunnel liners. Working with the Attorney General's Office, L&I negotiated a \$334,000 settlement in back wages to 26 truck drivers employed by the project – roughly \$1,000 to \$51,000 per worker.

## Challenges Ahead

Technology is increasing rapidly and many prevailing wage work descriptions, mostly adopted as rules in the late 1980s, may no longer clearly reflect how work is currently performed in the construction industry. We need to work on clarifying application of the rules in order to help businesses and workers better understand and apply them correctly.

We also need to make public agencies, businesses and workers more aware that prevailing wage rules exist. Increased outreach and awareness will reduce the number of violations and increase fairness at public work sites around the state.

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## APPRENTICESHIP PROGRAM

Registered apprenticeship prepares a qualified workforce in key occupations. L&I monitors apprenticeship programs for compliance with program standards and supports development of new programs in both traditional and non-traditional fields of work.



Electrical apprentice Angela Rivers earns while she learns.

## A Look Back

- Governor Gregoire's first bill signed in February 2005 was in support of apprenticeship. In office for just six weeks, the Governor signed SB 5097 to require the use of apprentices on public works jobs. This "apprenticeship utilization" bill originally included public schools and state transportation projects. It later was expanded to include higher education.
- In May of 2005, Governor Gregoire became one of the first governors in the nation to endorse "Helmets to Hardhats" to connect returning military veterans with apprenticeships.

- In 2006, Governor Gregoire proposed a bill to expand apprenticeship opportunities into secondary schools to help prepare students for technical careers and apprenticeships. This “Running Start for the Trades” bill opened up new opportunities for the 41% of high-school students who do not go to college.
- In 2008, the Governor announced her support for more apprenticeship programs in aerospace and technology.
- The 2009 Legislature passed a bill to add penalties for contractors found to be violating the apprenticeship standards.
- In 2010, the first Pacific Northwest Apprenticeship Education Conference in Tacoma attracted over 400 attendees from 216 different organizations.
- By 2012, Washington State is known as a national leader in apprenticeship. By percentage, more women participate in Washington’s programs than the national average. L&I’s leadership has led to new apprenticeship opportunities in emerging sectors, such as health care, and has made collaboration with the workforce development system a high priority.

## Impact of the Great Recession

In 2005, 12,593 active registered apprentices earned a wage while starting a career working for 6,000 employers. The number of registered apprentices reached a high of 18,643 in 2008 and then began to decline due to the recession.

The decrease in the number of registered apprentices continued through 2011 as construction opportunities dried up. During this time, the economic news for apprentices was discouraging. State and federal stimulus efforts focused on construction and apprenticeship utilization agreements on public works jobs helped some.

At the end of 2011, 12,519 registered apprentices were working for 7,454 employers.

There is still a large projected need for skilled workers in the trades.

## Major Accomplishments/Results

- Innovative programs for women and high-school students generate interest in apprenticeship for a new generation of workers.
- State and local apprenticeship utilization agreements have increased capacity for new apprentices.
- “Green” construction, alternative energy and other emerging occupations create new opportunities.
- Updated laws and rules allow for greater flexibility in apprenticeship methods, and the apprenticeship system now anticipates technological advances and emerging occupations.

## Challenges Ahead

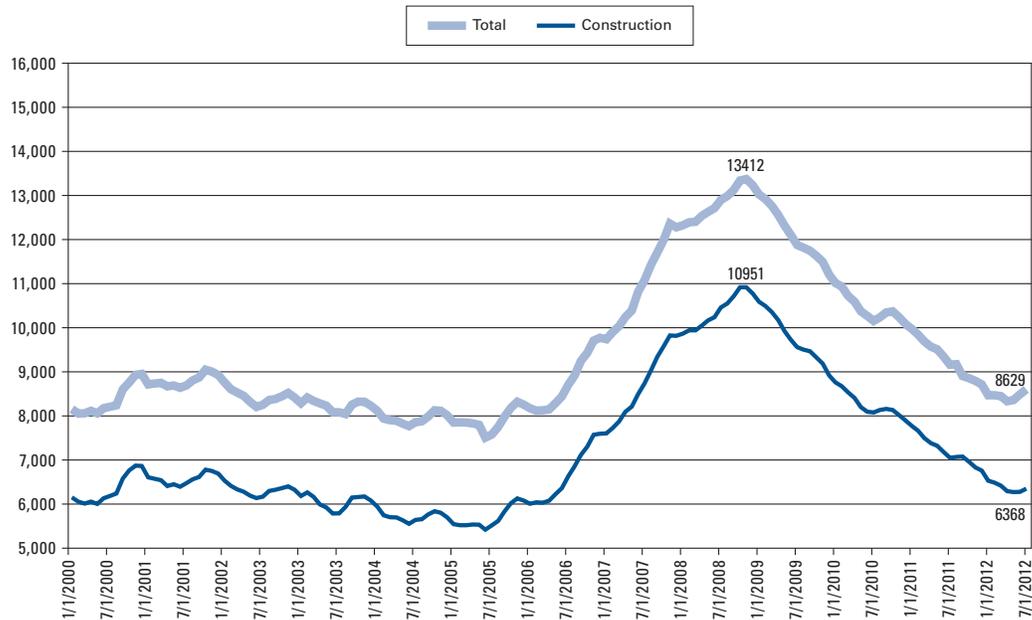
The slow economic recovery continues to impact apprenticeship. Three-quarters of apprentices are in the building trades, and the unemployment rate for these apprentices was consistent with the overall construction rate — up to three times higher than the state average.

Given the economic challenges, it’s encouraging that many innovative and energetic activities are taking place around the state in the name of registered apprenticeship. New employers are signing on to become training agents as they plan for their future labor needs.

Washington State’s apprenticeship system stands ready with untapped potential to meet challenges ahead.



Active Apprentices on the first day of each month (January 2000 – July 2012)



## CRIME VICTIMS COMPENSATION PROGRAM

The Crime Victims Compensation Program (CVCP) was established in 1974 to provide financial assistance to individuals who suffer personal injury from a violent crime. The program is the “payer of last resort.” This means the program pays only after primary insurance has paid.

The Crime Victims’ Compensation Program compensates crime victims for certain expenses, such as medical care, counseling, wage replacement, funeral arrangements, sexual assault examinations, and travel related to the crime.

The majority of claims are related to rape and domestic violence. Nearly 70% of victims are women and children.

### Impact of the Great Recession

In 2005 the Public Safety and Education Account was eliminated, resulting in the program being funded through the General Fund. As the state’s economic problems worsened, claims rose. They increased 20% in 2010 causing a projected \$3.4 million deficit. Prior to the recession, potential deficits were addressed in supplemental budget requests to the Legislature. With the recession, no such requests were feasible. Several benefits were reduced including the overall maximum payable per claim.

## Major Accomplishments/Results

- A number of modifications have been made to the CVCP over the past eight years. Several expanded the scope of eligible victims to include those victimized outside the United States in an act of terrorism, and those victimized outside Washington by an offender tried under the state's civil commitment process.
- The accident that severely injured and blinded Maria Federici in 2004 was the impetus for legislation that made it a crime to injure someone by failing to secure a load. Follow up legislation in 2006 added "failure to secure a load in the first degree" as a compensable crime under the CVCP.

- In 2011, the program was decoupled from the workers' compensation benefits structure. This change brought benefits of the Washington State CVCP in line with other states. It also put the program on a more sustainable financial footing to avoid future deficits.

## Challenges Ahead

Sections vetoed in the 2011 legislation will need to be fixed prior to July 1, 2015. The vetoed sections will allow benefit caps to bounce back to their original levels on that date, which could create sustainability problems for the program if the economy is still in slow recovery mode. The problem needs to be addressed closer to the date the change would occur in order to fully appreciate potential economic impacts.

# Consumer Protection Programs

## Contractor Registration, Electrical, Boiler, Elevator, Plumbing, FAS

Many people know L&I as the state agency that runs the state's workers' comp insurance program and inspects workplaces for safety. But L&I also operates several programs that make up a powerful consumer protection division keeping people and property safe in other ways.



Electrical inspections in homes and boiler inspections in child-care centers are two ways that L&I's consumer protection programs protect people and property.

### Examples

- A homeowner decides to save money on his new house by doing his own wiring. He buys an electrical permit from L&I's program and calls for the required inspection when finished. The L&I inspector discovers an electric stove that was improperly grounded, saving the homeowner's family from potential injury or death.
- An L&I elevator inspector visits the new owner of a three-story apartment building and discovers worn cables and safety equipment in disrepair.
- A young couple decides to hire their friend's uncle to put a new addition on their house, for a "great price". Before they pay, they check L&I's website to see if he is registered, bonded and insured. They find out he isn't and make other arrangements.
- A pipe bursts in a busy manufacturing plant. A plumber is called in quickly to repair it, but ends up creating a bigger problem. The owners soon find out he wasn't certified with L&I to repair that type of problem.

### Consumer Protection in the Trades

**Contractor Registration:** Registers 53,000 construction contractors, ensuring that they are bonded and insured; educates nearly 30,000 consumers each year about how to hire a contractor; and works to combat the underground economy.

**Electrical:** Licenses/certifies electricians and electrical contractors, and enforces these requirements. Issues electrical permits and inspects electrical work on residential and commercial properties.

**Boilers/Pressure Vessels:** Performs safety inspections and issues operating permits for boilers and unfired pressure vessels; administers exams for inspectors; investigates accidents.

**Elevators:** Inspects elevators and other lifting devices for safety, issues annual operating permits, and licenses elevator contractors and mechanics.

**Plumber Certification:** Tests, monitors and certifies plumbers, medical gas installers and well drillers to help protect the public with qualified trades people.

**Factory Assembled Structures (FAS):** Inspects manufactured housing, mobile homes, park trailers, modular buildings, recreational vehicles, commercial coaches, vendor/medical units and temporary housing.

## Impact of the Great Recession

### Boom and bust

Since 2005, L&I's "construction-related consumer protection" programs have endured the roller-coaster ride of both the construction boom and bust.

The boom sparked a major program effort to increase the speed and efficiency of L&I's permitting and licensing processes. New online services began improving services for customers and dropping program costs.

The crash, with its loss of more than 70,000 construction jobs, precipitated a major drop in revenues collected by these largely fee-based, self-supporting programs, forcing them to lay off many experienced in-the-field inspectors.

Finally, it was a period marked by a joint L&I/labor/business partnership to crack down hard on fraudulent contractors. The goal: Find contractors who were ripping off unsuspecting homeowners and those who were cutting out legitimate bidders by skipping required protections for workers.

### Major Accomplishments/Results

#### Reorganized inspection staff uncover more construction fraud

As the economy worsened, L&I could see the rise in construction contractor fraud. Contractors eager to bid as low as possible for work ignored their requirements. And property owners with less money began looking for the cheapest route to fix their leaky roof or burst plumbing,

often with disastrous results. In late 2010, L&I reorganized inspection staff and now dedicates 22 inspectors to finding the underground economy in construction.

"It's made a huge difference," said L&I Director Judy Schurke. "Since putting the changes in place, L&I has inspected more than 10,000 active job sites — up 56% from the year before. Inspectors also checked more than 14,000 registrations and certifications, and issued infractions to nearly 2,600 contractors, plumbers and electricians, up 39% from the year before."

#### New technology is improving customer service, reducing costs, and improving enforcement

Governor Gregoire's call to "make it easier to do business with the State of Washington" had paid off for the thousands of electricians, plumbers and contractors who must keep their licenses renewed and up to date. Now, 50% of all license renewals are being done online, and the average license application is turned around in 3 ½ days.

Also, 99% of all contractors' electrical permits are sold online, and 51% of all homeowners'.

Soon, L&I inspectors will take "CLUE" on the road. This mobile system will pull from multiple

### CONTRACTOR TRAINING DAYS

These free events held throughout the state bring a variety of experts together in one place. Contractors can learn about everything from liability for subcontractors' unpaid workers' comp premiums to cash flow management to prevailing wage requirements. L&I organizes and presents Contractor Training Days with participation from other state agencies, business organizations and contractor associations.





databases to reveal a complete profile of any contractor's history from most state agencies. Inspectors will be able to visit more job sites — demonstrating L&I's presence in the field and putting the underground economy on notice — and have more complete information at their fingertips.

### Electrical Program more vigilant than ever

The focus on fighting fraud and increasing efficiency has paid off for consumers in the electrical arena. The Electrical Program has increased by 25% the number of violations found and cited in the last year alone. And the program says the higher anti-fraud profile is part of the reason: it's getting many more referrals from legitimate contractors, electricians, and utilities. What's more, when citations are appealed, L&I's win rates are higher than ever — 92% by FY 2012.

What does that mean to the average citizen? It means they are less likely to get stuck with a poor quality or even dangerous fix to an electrical problem. It means less faulty wiring installed by the friend-of-a-friend claiming to be a certified electrician. It means fewer house fires, fewer electrocutions, and a much safer state to live in.

### L&I's Boiler Program focuses on finding and fixing water heaters with the potential to explode

Can a defective water heater cause a dangerous explosion? Not many people realize the answer is yes. L&I's Boiler Program is changing that lack of awareness — focusing on the safety of water heaters in churches and child-care centers throughout Washington. Inspectors visited more than 2,000 child-care centers with 13 or more children, which are required to have biennial water-heater inspections. Inspectors found that 26% (543 boilers) had never been inspected and 17% of the boilers had safety violations — twice the national average.

The Boiler Program is now working with building official organizations to coordinate their efforts.

### Elevator inspections: Heightening building owner awareness

Elevator and escalator accidents caused by poor maintenance do happen, and can be fatal. A major development in elevator safety occurred in 2012, when L&I proposed to require "maintenance checklists" posted in all elevator machine rooms.

"This means building owners will know when their elevators are scheduled for their next safety maintenance check-up," said L&I's Chief Elevator Inspector, Jack Day. "They'll know what needs to be checked, serviced, or replaced and how often," instead of relying on the technical records kept by elevator maintenance contractors.

### Challenges Ahead

Increasing protections for consumers by strengthening the insurance and liability requirements for contractors will depend on legislative support. For example, at a minimum, a single-trade contractor is required to purchase a bond of only \$6,000 (in addition to liability insurance). The requirement hasn't changed in the past decade, and still leaves consumers vulnerable when major problems occur.

L&I also hopes to strengthen its relationship with county prosecutors so legal action can be regularly taken against — and restitution collected from — repeat violators of contractor laws.

Finally, L&I's consumer protection programs will continue to make a strong case for improving their online technologies, both to cut costs and to improve service for the thousands of Washington residents and businesses they serve.

## Customer Service Commitment

### SMALL BUSINESS LIAISONS

Small business is a major economic engine for job creation and progress in Washington State. Because they're small, these companies may not be able to afford safety, legal and tax experts to help them deal with government requirements and processes.

L&I's two small business liaisons respond to questions and concerns, speak to business groups around the state, and make sure the concerns of small businesses are communicated within the agency.

**Friendly Help for Small Business**

*L&I's Small Business Liaisons:  
Your contacts inside L&I*



**Celia Nightingale**  
Small Business Liaison

**Aaron Hoffman**  
Small Business Liaison

Toll Free: 1-800-987-0145  
E-mail: [SmallBusiness@Lni.wa.gov](mailto:SmallBusiness@Lni.wa.gov)  
Web Page: [www.SmallBusiness.Lni.wa.gov](http://www.SmallBusiness.Lni.wa.gov)

**Get information and solve problems with one phone call**

### How It Began

When Governor Gregoire was first elected, she wanted L&I to do a better job of paying attention to the concerns of business owners. L&I responded, holding its first-ever Small Business Roundtable in June 2005. L&I asked small-business owners and organizations who attended how L&I could better serve them, and they had many ideas. For example, making sure claim managers are familiar with the industries they serve and treating employers as customers — the way an insurance company treats its policy holders.

L&I launched its Small Business Liaison's Office in 2006. Demand for the liaison's services grew steadily, and in 2008, a second liaison was hired.

At the Governor's suggestion, other agencies established similar positions, and now there are about 25 small business liaisons in the state, although L&I still has the most intensive program.

### Services Today

In 2011 alone, the L&I Small Business Liaison team helped nearly 1,400 small-business owners directly and more than 32,000 through its website for small businesses.

Also in 2011, L&I hired Celia Nightingale as the new small business liaison. Her 20+ years of business management experience has improved L&I's ability to anticipate and respond to business needs and to communicate with small-business owners and managers.

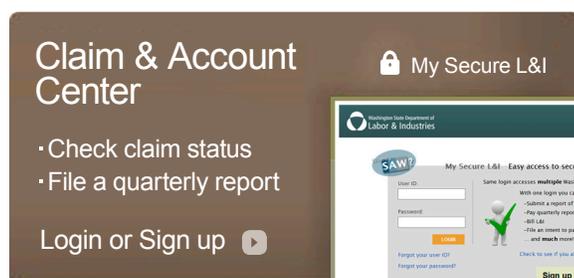
Today's services reach a greater variety of businesses as well. Prior to the Great Recession, small construction contractors were frequent customers for the small business liaisons, and were viewed as the "typical" customer for most L&I staff who interacted with customers.

Since then, the proportion of contractors has decreased while the proportion of other types of business has increased, including those expanding into various niche industries.

## ONLINE SERVICES

Customers are increasingly sophisticated about how they obtain information and how they access government services. While service counters and telephones in offices still play a role, a growing number of customers turn to websites, social media and mobile devices.

The number and quality of L&I's online services has increased dramatically in the past eight years. Making it easier and more satisfying for customers to transact business with L&I will remain a strategic focus in the years ahead.



### Online Claim & Account Center

This secure website allows employers, injured workers, and doctors to manage claims and accounts without waiting for a contact from L&I. Popular with users since it was launched in 2005, traffic on the online Claim & Account Center has more than tripled in the last five years. Each month, the Claim & Account Center responds to more than 2 million requests for data. This includes more than 250,000 views of scanned documents.

Features of the Claim & Account Center include:

- Access to doctors' notes and test results as well as letters between L&I and the doctor, worker, and employer.
- An online mailbox where workers and providers can receive secure messages from claim managers instead of waiting for phone calls or letters in the mail.
- Trend reports for businesses that show cost data in charts and graphs.
- A cost-analysis calculator for businesses to help them estimate the effect of claims.
- Billing software that helps speeds payments to medical providers while avoiding the expense of purchasing their own software.

## Advances in other online services

**Quarterly Reports:** More than 100,000 employers now file their L&I quarterly reports online. Online filers say that it's even faster and easier than paper. By letting the computer do the math, businesses avoid mistakes, which saves time and money for them and for the workers' comp system.

**Online filing for claims:** Instead of a tedious paper form, the online system gathers specific and detailed information that speeds up decisions and authorization of time-loss benefits or additional medical care. Research shows that processing claims quickly improves worker outcomes. Online

claim-filing is an important part of L&I's multi-year effort to improve claim processing.

**Look-up tools:** L&I has created two easy-to-use look-up tools for doctors' offices that are very popular with them, including one that instantly shows which drugs are covered and another one that checks L&I's medical fee schedule and billing codes.

**Work management:** L&I has made significant changes internally, using Web-based applications, to make it easier for claim and account managers to collaborate with each other and to manage their work.

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## LEAN TRANSFORMATION

L&I's adoption of the Lean system, used by successful companies, such as Virginia Mason Hospital and Medical Center and The Boeing Company, generated immediate results. Lean is also an investment for the future, leading to fundamental changes in business processes that reduce delays, improve quality, and lower costs.



Display near the Director's Office tracks progress on several Lean projects.

L&I is the leader in state government for using "Lean" process improvement techniques adapted from a highly successful system first developed by Toyota. Lean is helping L&I create and deliver the most value from the customer's perspective while consuming the fewest resources.

A key part of L&I's Lean strategy has been to develop capacity and Lean skills throughout the organizations. The agency has trained 21 certified Lean trainers from the staff ranks and a Lean consultant and in-house trainers have trained 91 executives and managers. Training for managers and staff continues.

### Projects and Results

Here are three examples of successful projects:

- Reduced lapses in contractor insurance renewals by 37%, which ensure that contractors stay licensed to work.
- Reduced by 43% (30 days) delays in handling disputes about vocational rehabilitation services.



- Decreased by \$225,035 a year the non-value added work in L&I's claim manager training program by eliminating duplicate steps and wasted time entering quality assurance data in multiple places. This increased time available for trainers to do one-on-one coaching with new claim managers.

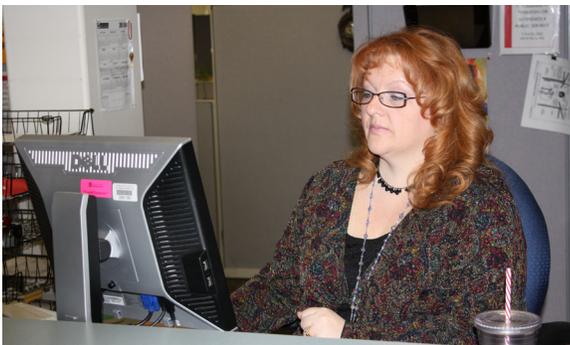
Projects under way include a major effort to increase the number of Ability to Work Assessments

(AWAs) closed in 90 days from 13% to 50%. An AWA is used when an injured worker is unlikely to return to work with the same employer and L&I needs to address the workers' ability to work before closing the claim. L&I uses the services of vocational counselors to provide these assessments. Reducing the average duration of an AWA could result in \$20 million in annual savings.

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## **BUILDING A BETTER CUSTOMER EXPERIENCE**

Lean's focus on "meeting customer needs" challenges L&I to be efficient while also being fair and easy to work with. The best way to accomplish both is to listen to customers and use that input to inform planning and decision making. Customer research and Lean go together.



Customer Service Specialist Cynthia K. Anderson gathers information for a customer at the front desk of L&I's Spokane Office.

### **The Role of Research**

L&I is using customer survey data to help identify and prioritize improvements in business practices, and measure performance. Regular surveys are now conducted for workers' compensation and workplace safety customers, and L&I's goal is to expand this practice into other programs.

The main message from the first round of surveys is this: Customers generally give L&I high marks for the way they are treated in interactions with L&I people, but the agency has room for improvement on some of its processes.

Seeing "value" from the customer point of view is central to Lean management practices adopted by the agency, so customer data is being integrated into Lean projects. L&I's Division of Occupational Safety and Health (DOSH) is using survey results to help drive its Lean project to improve the workplace inspection process. Insurance Services is using customer survey results in a program to improve workers' comp claim management, especially in the realm of proactive contact with injured workers and employers with new claims.

L&I is also implementing a standardized customer service follow-up survey to get real-time feedback from customers who have just completed a transaction with an agency program.

## Relationships Built on Service

L&I employees have a natural desire to serve customers well. The challenge is to keep the agency focused on:

- Embracing changes that help customers successfully transact business with L&I.
- Understanding customers' needs and building the right products and services.

- Providing high value from the customer's perspective while avoiding waste that costs time and money.

L&I has embarked on a major effort to coordinate and expand its online presence, given that our customers increasingly prefer this way to access our services. This agencywide effort will offer L&I customers their own unique Web experience to meet their individual needs. The target date for this product is 2014.

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## PLAIN TALK

"Plain Talk" is L&I's commitment to communicating with customers using clear, organized language — avoiding "legalese" and jargon — and writing with ordinary citizens in mind.



The Plain Talk team for the Medical Information and Payment System (MIPS) Unit turned unclear instructions into a simple checklist.

"We wanted to help providers bill us correctly, so we didn't have to delay their payments."

Following Governor Gregoire's executive order in 2005 and support from L&I's Director, the agency issued a new employee policy on "Plain Talk." The policy encourages L&I employees to use Plain Talk principles to communicate with customers, and builds on successful team projects L&I has conducted since 2001.

### Purpose of L&I's Plain Talk Policy

- Give all L&I customers their rightful access to needed information by providing clear and easy-to-use documents and Web pages.
- Improve customer service.
- Make agency operations more efficient and cost-effective by reducing misunderstandings, phone calls, follow-up letters and complaints.
- Improve our customers' ability to comply with regulations.

Approximately 400 L&I employees have taken Plain Talk training through the Department of Enterprise Services' Training and Development Section or from in-house training tailored to specific programs.



## Plain Talk Teams

At L&I, staff work in teams on Plain Talk projects so the project can benefit from staff insights and staff can develop new skills and continue this work.

Plain Talk projects have redesigned, rewritten and user-tested some of the agency’s most important forms, including the workers’ compensation quarterly report, employer’s annual rate notice, report of accident, and wage complaint form along with scores of form letters.

## Looking Ahead

Clear and concise is no longer enough. Government is challenged to present complex concepts in digestible “chunks” for customers whose interest in reading continues to diminish. Space on mobile device screens is limited. Websites with too much information turn customers away. Tiered information — often called bite, snack, meal — will become even more important. And presenting information in non-text formats — photographs, illustrations, animated PowerPoint slides and video programming will play a growing role. Adapting L&I’s Plain Talk commitment to this ever-changing landscape is under way now.

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## SPANISH-SPEAKING CUSTOMERS

The demographic trends in Washington State underscore the need for Spanish-language services and outreach. According to the 2010 census, the Hispanic population grew by nearly 314,000 in the previous decade, an increase of 71.2%. Hispanics now make up 11.2% of the state’s population.

A “persona” of a typical user of Spanish information on L&I’s website.



- 42 years old
- Construction - Roofing
- Prefers Spanish

**Goals:**  
Get medical help so he can get back to work soon

## How It Began

L&I’s Spanish Language and Outreach Program formally began in 2002 to improve communication with workers in Spanish, identify information they need to navigate L&I services, and promote Spanish-speaking workers’ understanding of workplace rights. The program was a direct response to demographic trends showing a continuing increase in Spanish-speaking people within the state.

A handful of translated forms, publications, and informational material has become a multi-faceted program that includes outreach events, information in Spanish media (primarily newspapers and radio), and a Spanish website with 319 Web pages. Translations for claims-related documents in Spanish and 51 other foreign languages has grown to more than 12,000 documents in 2011. The number of publications and forms in Spanish has greatly increased as well.

L&I has built stronger in-house translation capacity by requiring a test for Spanish translation proficiency before new L&I staff can be hired into bilingual positions.

## Stakeholder Collaboration

L&I has worked with a number of stakeholders to reach and communicate with the Hispanic community. They include the Consulate of Mexico, Northwest Justice Project, Columbia Legal Services, the Washington State Labor Council, the Farm Bureau, the Growers League, SEA MAR Community Health Centers, the United Farm Workers, and the Commission on Hispanic Affairs.

## Looking Ahead

Agricultural employers are increasingly hiring H-2A guest workers because they need to find

a steady workforce for planting and harvesting crops. L&I is in the process of analyzing the status of the claims management and bill payment processes to providers in Mexico to ensure that foreign injured workers receive the care that they need if they return home with workplace injuries or occupational illnesses. Although a network of approximately 75 providers in Mexico has been set up, these claims and billing processes have proven to be challenging to track and manage within our current workers' compensation system.

These same issues could play out elsewhere as guest workers arrive from countries other than Mexico.

*Other formats for persons with disabilities are available on request. Call 1-800-547-8367. TDD users, call 360-902-5797. L&I is an equal opportunity employer.*

**On the Web:** [www.Lni.wa.gov](http://www.Lni.wa.gov)

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