



## Real Reform Can't Wait – It's Time to Fix Washington's Workers' Comp System

### The State Fund is on a path to insolvency.

- A State Auditor's report shows "a **74.4% chance of insolvency in the Accident Fund within two years ... and 89.5% within five years.**"<sup>1</sup> At its December WCAC meeting, L&I admitted that **the Accident Fund will be in the red by mid-2010** for an indeterminate period of time.
- Outside analysis shows **it costs L&I \$1.81 to run the system for every \$1.00 of premium it collects.**<sup>2</sup>
- L&I's **\$117 million rate hike for 2010** will close the gap temporarily, but was **"inadequate by design."**<sup>3</sup>
- The **"best" estimate is a 33% rate increase** would be necessary for the Accident Fund to break even" – that's a **half-billion dollar tax hike** on employers and workers already struggling to make ends meet.

### **The problem isn't the economy. Our workers' compensation system is broken.**

#### Workers aren't returning to work.

- In Washington, the **average injured worker with a time-loss claim misses 270 days of work**<sup>4</sup> – more than twice the average of NCCI states.<sup>5</sup> Oregon's average time loss rate is about 70 days.
- We have the **highest pension rate in the nation.**<sup>6</sup> More than **50% of injured workers are likely to receive a pension** from L&I if they've been off work more than two years.<sup>7</sup> In fact, **pension rates are up more than 300%** since 1996.<sup>8</sup>

#### Claims are down, but costs are skyrocketing.

- Since 1990, **claims have dropped 52%**,<sup>9</sup> but **workers' compensation tax rates are more than 50% higher** than they were just ten years ago.<sup>10</sup>
- The department's **administrative costs increased 82%** from 1999 to 2009.<sup>11</sup>
- Medical payments are rising faster than inflation<sup>12</sup> and well above the national average.

#### Washington is out of step with the rest of the nation.

- We are an outlier in benefit levels and claims resolution practices. Washington's system has the **second-highest cost per employee in the nation.**<sup>13</sup> We provide the **third-highest benefit package in the country.**<sup>14</sup> Moreover, **we prohibit common claims resolution methods.**
- Washington is one of **only four states with a government monopoly**<sup>15</sup> that forbids private competition for industrial insurance coverage.
- While **workers' comp taxes are falling around the country**, Washington employers and workers face a **\$117 million tax hike for 2010** – the highest jump since 2003. By comparison, Oregon has not increased its rates in the last 20 years and plans to *decrease* their rates again this year.

### **We can fix our system and reduce costs without reducing benefits.**

- **Allow Voluntary Settlement Options.** Give workers, employers, and L&I the option to settle claims for a lump sum. Washington is one of only eight states that forbid this proven claims resolution mechanism.<sup>16</sup>
- **Clarify Occupational Disease Definitions.** Our state has one of the broadest occupational disease definitions in the country. It must be revised to exclude conditions that are not work-related.
- **Authorize Medical Provider Networks.** Injured workers deserve access to medical providers trained and experienced in treating their particular condition. Pilot programs in this state and established networks in other states have demonstrated superior outcomes and significant time loss cost savings. We must establish these networks to treat injured workers statewide as is the practice in 44 other states.<sup>17</sup>

**Help make Washington's workers' compensation system competitive and protect this important worker benefit!**

---

<sup>1</sup> Washington State Auditor's Office, "Workers' Compensation Program, Audit Period July 1, 2008 through June 30, 2009, Report No. 1002832," (December 31, 2009) at 3, *available at* [www.sao.wa.gov/auditreports/auditreportfiles/ar1002832.pdf](http://www.sao.wa.gov/auditreports/auditreportfiles/ar1002832.pdf).

<sup>2</sup> Conning Asset Management, handout, L&I Workers' Compensation Advisory Committee meeting (December 9, 2009) at 5.

<sup>3</sup> Letter from L&I Director Judy Schurke to Steve Wendling, Audit Manager, Washington State Auditor's Office (December 29, 2009).

<sup>4</sup> Handout, "Duration of Time Loss Claims" at L&I's Workers' Compensation Advisory Committee meeting (December 9, 2009). This is an increase from 266-day average previously reported; *see* PowerPoint Slide, "2010 Proposed Rate Discussion" at the Workers' Compensation Advisory Committee Meeting (September 21, 2009) at 45, *available at* <http://awbblog.typepad.com/files/wcac-presentation-9-15-09---final.pptx>.

<sup>5</sup> PowerPoint Slides, National Council on Compensation Insurance, "Workers' Compensation Temporary Total Disability Indemnity Benefit Duration," at the Annual Issues Symposium (May 8, 2009) at 2, 6, *available at* <http://www.ncci.com/Documents/AIS-2009-WC-TempTotal-Disability.pdf>.

<sup>6</sup> PowerPoint Slides, W.E. Upjohn Institute for Employment Research, "Washington Pension System Review," (2008) at 7, 8. *See also* W.E. Upjohn Institute for Employment Research, "[Washington Pension System Review](#)," Technical report 008-025, (2008) at 3-30, or the [Executive Summary](#) at xi.

<sup>7</sup> PowerPoint Slide, "2010 Proposed Rate Discussion" at the Workers' Compensation Advisory Committee Meeting (September 21, 2009) at 41, *available at* <http://awbblog.typepad.com/files/wcac-presentation-9-15-09---final.pptx>.

<sup>8</sup> L&I Actuarial Services, "TPD Pensions Allowed by Fiscal Year" (Data File), *available at* <http://awbblog.typepad.com/files/fy-pension-numbers.pdf>.

<sup>9</sup> PowerPoint Slide, "2010 Proposed Rate Discussion" at the Workers' Compensation Advisory Committee Meeting (September 21, 2009) at 51, 52, *available at* <http://awbblog.typepad.com/files/wcac-presentation-9-15-09---final.pptx>.

<sup>10</sup> Labor & Industries, "Average Standard Premium Rates (per hours worked)," (Sept. 18, 2008), *available at* <http://www.lni.wa.gov/ClaimsIns/Files/Rates/AvgStdPremRates.pdf>.

<sup>11</sup> Labor & Industries, "Washington State Workers' Compensation State Fund Ten Year Summary of Financial Information," *available at* <http://www.lni.wa.gov/ClaimsIns/Files/StateFundFinancial/TenYearSummaryFinInfo.pdf>. This document with Fiscal Year 2008. For the preliminary 2009 cash flow statement, which fixes administrative expenses paid at \$274 million, and is part of this calculation, *see* <http://awbblog.typepad.com/files/img-x22153042.pdf>.

<sup>12</sup> PowerPoint Slide, "2010 Proposed Rate Discussion" at the Workers' Compensation Advisory Committee Meeting (September 21, 2009) at 28, *available at* <http://awbblog.typepad.com/files/wcac-presentation-9-15-09---final.pptx>.

<sup>13</sup> National Foundation for Unemployment Compensation & Workers' Compensation, "UWC Research Bulletin: Fiscal Data for State Workers' Compensation Systems 1998-2007," at 7, 14. Cost per covered employee – West Virginia: \$1,023; Washington: \$698; California: \$644; Alaska: \$626. Washington ranked second in 2005, 2006 and 2007, which is the last year of data for this report.

<sup>14</sup> National Academy of Social Insurance, "Workers' Compensation: Benefits, Coverage, and Costs, 2007," (August 2009) at 26, 27, *available at* <http://www.nasi.org/research/2009/report-workers-compensation-benefits-coverage-costs-2007>. *See also* National Foundation for Unemployment Compensation & Workers' Compensation, "UWC Research Bulletin: Fiscal Data for State Workers' Compensation Systems 1998-2007," at 18.

<sup>15</sup> National Academy of Social Insurance, "Workers' Compensation: Benefits, Coverage, and Costs, 2007," (August 2009) at 13, *available at* <http://www.nasi.org/research/2009/report-workers-compensation-benefits-coverage-costs-2007>. The four states are Washington, Ohio, North Dakota, and Wyoming.

<sup>16</sup> W.E. Upjohn Institute for Employment Research, "[Washington Pension System Review](#)," Technical report 008-025, [Executive Summary](#) (2008) at xii.

<sup>17</sup> Workers' Compensation Research Institute, "Managed Care and Medical Cost Containment in Workers' Compensation: A National Inventory, 1997-1998," (December 1998) [subscription only] shows 39 states either mandate or allow Medical Provider Networks in their workers' compensation process. Since 1998, the following states adopted medical provider networks: Florida (2003), New Jersey (2003), West Virginia (2005), Texas (2005), and California (2005), bringing the total to 44. *See also*, U.S. Chamber of Commerce, "Analysis of Workers' Compensation Laws – 2008."