



**PLEASE OPPOSE SHB 2409, INCREASED WORKERS COMP PENALTIES ON EMPLOYERS**

*SHB 2409 contains three subjects: Increased Employer Penalties, New “Insurance Fair Conduct” Liability, and Regulation of Self-Insured Claims Administrators*

The bill is unjustified, punitive, and costly for employers and the workers’ comp system

- While it is appropriate for the Legislature to review penalty amounts from time to time, penalties should not be indexed to annual wage inflation (section 7) as this will remove legislative oversight; lead to an infinite increase in penalties; and lead to excessive/unjustified penalties.
- The bill contains a subtle “per occurrence” multiplier on self-insurance penalties (section 2). This is intended to overturn a court case, Labor & Industries, and Board of Industrial Insurance Appeals policy to the contrary, and will lead to excessive, extreme penalties for very small benefit delays. Many of these penalties will be levied against taxpayers — self-insured counties, cities, and school districts — not large private corporations.
- The bill contains a new, vague, undefined ground for employer liability — “fair conduct relating to all aspects of a claim” (section 8). Yet-to-be-defined by rulemaking, this language is borrowed from the Insurance Fair Conduct Act, a regulation on private insurers. Yet private workers’ compensation insurance is prohibited in Washington. All employers already have an obligation to comply with the requirements of Title 51. This is just another layer of penalty added on top.
- Labor & Industries already has oversight of self-insured claims administration through its regulation of employers, and just completed a major overhaul of rules related to training, certification, and continuing education of persons administering claims. Requiring new “licensing” rulemaking is wasteful and unnecessary.

**Fiscal Note Highlights**

- “This will entail substantial rulemaking and potentially involve litigation challenges to the rules.”
- \$6M in increased staffing and IT costs estimated through 2023-25