

NWHPHBA WASHINGTON STATE END OF SESSION REPORT

OTHER GENERAL WASHINGTON STATE SMALL BUSINESS NEWS!

Capital gains income tax passed by Legislature thrown out by court

In early March, a Douglas County Superior Court judge tossed out the capital gains tax lawmakers passed in 2021.

In his written ruling, Douglas County Superior Court Judge Brian Huber upheld opponents' argument that new tax was a tax on income, which violates previous state Supreme Court rulings and the state constitution because it is not a uniform taxation on property.

State Attorney General Bob Ferguson said he would appeal the ruling to the state Supreme Court, noting that there was a lot at stake for funding early learning, child-care programs, and school construction.

The measure imposes a 7% tax on the sale of stocks, bonds and assets exceeding \$250,000. It was projected to generate \$415 million in 2023, the first year the tax would be collected.

[KING 5 TV](#), [Northwest Public Radio](#) and [GeekWire](#) covered the story.

ESD lays out new timeline for long-term care program premium collection, program implementation

The Legislature passed the Washington Cares Act (WA Cares) in 2019. The Act created a long-term care program funded by payroll premiums. As the program's implementation neared this year, lawmakers and the public questioned the viability and need for the new state-run program.

In light of the mounting uncertainty and questions of program solvency, the Legislature passed and governor signed [House Bill 1732](#) on Jan. 27 to delay the program and premium collection until July 2023.

The state Employment Security Department is the agency responsible for administering the program. It created a [website](#) to support employers, which reads: "Beginning July 1, 2023, you'll collect premiums from your employees the same way you do now for Paid Leave—we've updated the Paid Leave reporting system on our end so you can report for both programs at the same time."

More information on premium calculation can be found [here](#).

Bills that impact employers have mixed results

Though lawmakers were only in session 60 days, several bills that would impact employers were considered. Many bad bills died and a couple of good ones passed.

Some of the bills that would have negatively impacted employers include:

- [House Bill 1076](#): Modeled off California's law, this bill would subject small businesses to third-party greenmail lawsuits alleging violations of more than a dozen workplace and health or worker rights and safety laws. **Died in committee.**

- [House Bill 1474](#): This bill would increase penalties for inadvertent errors in quarterly unemployment insurance reports. **Died in committee.**
- [Senate Bill 5130](#): This bill would effectively undo our state's employment-at-will doctrine, exposing employers to litigation. The bill would also prohibit redaction of sensitive and personally identifiable information. **Died in committee.**

Bills that have a positive impact on employers are:

- [Senate Bill 5137](#): This bill would allow for a one-year suspension of the COLA (Cost-of-Living Adjustment) on workers' compensation benefits. **Died in committee.**
- [Senate Bill 5873](#): This bill would provide a two-year reduction in the scheduled increase for the social tax component of Unemployment Insurance rates for the remainder of 2021 and 2022. **Passed and signed by governor. Bill took effect March 11, 2022.**

Bill to change disability wage calculation for married individuals dies in committee

[Senate Bill 5835](#) would have eliminated the reference to marital status in the time loss and pension wage rate statutes, setting the floor for all workers without children at 65 percent. As written, the bill would:

- Provide the same percentages of the worker's wages to be received by an injured worker for a permanent total disability whether a worker is married or unmarried; and,
- Remove the requirement that an injured worker be married to receive an additional \$10 per month when the worker is receiving the minimum monthly payments for a permanent or temporary total disability.

The change would have created a significant fiscal impact as the effective rate of pay across the system is approximately 63.3 percent.

While the bill advanced to the House Rules Committee Feb. 3, it did not receive a vote of the full Senate.

Potential data breach at state Department of Licensing

Officials this month said they flagged a potential data breach in January at the state Department of Licensing (DOL) that could have compromised professional license holders.

According to [GeekWire](#): The state issues and processes about 40 types of professional and occupational licenses through a database called POLARIS (Professional Online Licensing and Regulatory Information System). Professionals in the database include real estate brokers, architects, geologists, tattoo artists, and others.

Information that may have been stolen in the breach could include social security numbers, drivers license numbers, and date of birth for people in the POLARIS database.

The state Cybersecurity Office reported that it began to see data on the "dark web" last month that suggested DOL was hit by a data breach.

[The Seattle Times](#) has more on the story.

Redistricting plan challenged

After a long and controversial process, the state [Redistricting Commission's](#) plan is again [under fire](#).

The Commission is tasked every decade with redrawing legislative and congressional districts based on population increases and migrations, ensuring nearly equal numbers of residents in each of the districts.

The newest [redistricting plan](#) was submitted Nov. 15, 2021, and was immediately met with skepticism. [Allegations](#) of deal-making and lack of adherence to the Public Open Meetings Act led to a [lawsuit](#) by the Coalition for Open Government. The result of the challenge is the state Supreme Court was asked to resolve the questions surrounding the legitimacy of the plan; the court ruled that the plan “substantially complied” with statutory deadlines, and [declined](#) to adopt a new redistricting plan for the state.

This month, another lawsuit was filed, this time the charge is gerrymandering. As reported in [The Washington Observer](#), “The lawsuit argues that the new 15th district is unconstitutional because it was drawn purely so that slightly more than half3 of its citizens of voting age are Latino, without any other compelling purpose.”

The maps of the legislative and congressional are available [online](#).

NWHPBA END OF SESSION BILL REPORT – 2022

High Priority Bills That Passed

Bill #	Abbrev. Title	Short Description	Status	Sponsor	Position
SHB 1623	Power supply inadequacy	Addressing the extent to which Washington residents are at risk of rolling blackouts and power supply inadequacy events.	Del to Gov	Mosbrucker	Support
SHB 1732	Long-term care/delay	Delaying the implementation of the long-term services and supports trust program by 18 months.	C 1 L 22	Sullivan	Support
ESHB 1733	Long-term care/exemptions	Establishing voluntary exemptions to the long-term services and supports trust program for certain populations.	C 2 L 22	Paul	Concerns
SSB 5651 (SHB 1781)	Capital budget, supplemental	Concerning the capital budget.	Del to Gov	Frockt	No changes to Woodstove Changeout Funding
SSB 5910	Hydrogen	Accelerating the availability and use of renewable hydrogen in Washington state.	Del to Gov	Carlyle	Support
ESSB 5980	B&O tax credits	Providing substantial and permanent tax relief for small businesses to mitigate structural deficiencies in Washington's business and occupation tax and lessen long-term negative economic consequences of the pandemic that have disproportionately impacted small businesses.	Del to Gov	Carlyle	Support

Medium Priority Bills That Passed

Bill #	Abbrev. Title	Short Description	Status	Sponsor	Position
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<u>E2SHB 1015</u>	Equitable access to credit	Creating the Washington equitable access to credit act.	Del to Gov	Maycumber	Support
<u>ESHB 1795</u>	Nondisclosure/illegal acts	Prohibiting nondisclosure and nondisparagement provisions from employers regarding illegal acts of discrimination, harassment, retaliation, wage and hour violations, and sexual assault.	C 133 L 22	Berry	Concerns
<u>SSB 5564</u>	Employee assistance programs	Protecting the confidentiality of employees using employee assistance programs.	C 11 L 22	Keiser	Concerns
<u>SSB 5722</u> (HB 1774)	Greenhouse gases/buildings	Reducing greenhouse gas emissions in buildings.	C 180 L 22	Nguyen	Neutral
<u>ESSB 5761</u>	Wage and salary information	Concerning employer requirements for providing wage and salary information to applicants for employment.	Del to Gov	Randall	Oppose
<u>ESSB 5873</u> (HB 2031)	Unemployment insurance	Concerning unemployment insurance, family leave, and medical leave premiums.	C 61 L 22	Keiser	Support

Bills That Did Not Pass This Year

Bill #	Abbrev. Title	Short Description	Status	Sponsor	Position
<u>SHB 1057</u>	Clean air act/enjoyment term	Clarifying the meaning of the term "enjoyment of life and property" within the clean air act.	H Env & Energy	Pollet	Oppose
<u>E2SHB 1099</u>	Comprehensive planning	Improving the state's climate response through updates to the state's comprehensive planning framework.	H Rules 3C	Duerr	Oppose
<u>SHB 1103</u> (SB 5366)	Building materials	Improving environmental and social outcomes with the production of building materials.	H Approps	Duerr	Concerns
<u>E2SHB 1117</u>	Comp. planning/salmon	Promoting salmon recovery through revisions to the state's comprehensive planning framework.	H Rules 3C	Lekanoff	Concerns
<u>HB 1473</u> (SB 5414)	Data centers/tax preference	Providing a tax preference for data centers in counties with a certain population.	H Finance	Jacobsen	Concerns
<u>HB 1486</u>	Unemployment/voluntary	Concerning qualifications for unemployment insurance when an individual voluntarily leaves work.	H Rules C	Berry	Oppose
<u>HB 1594</u>	Long-term care/repeal	Repealing the long-term services and supports trust program.	H Approps	Abbaro	Support

<u>SSB 5137</u>	Workers' comp COL adjustment	Suspending workers' compensation cost-of-living adjustments for fiscal year 2022, changing the basis of certain future adjustments to the consumer price index, and capping the rate of increase for future adjustments.	S Rules X	King	Support
<u>SSB 5380</u>	Building permit approval	Concerning the approval of building permits.	S Rules X	Fortunato	Support
<u>SB 5438</u>	Unemployment/immigration	Providing unemployment benefits to workers who are unemployed as a result of the COVID-19 pandemic and not eligible for unemployment benefits due to immigration status.	S Labor, Comm &	Saldañaa	Oppose
<u>SB 5493</u>	Residential renewable energy	Reopening the renewable energy system incentive program for residential-scale systems.	S Environment, En	Wilson	Neutral
<u>SB 5517</u>	Cannabis/employment	Concerning employment of individuals who lawfully consume cannabis.	S Labor, Comm &	Keiser	Oppose
<u>SB 5520</u>	Harassment & discrim. NDAs	Disclosing harassment and discrimination.	S Rules X	Keiser	Concerns
<u>SB 5557</u>	New businesses/B&O tax	Providing sustainable support for new businesses.	S Business, Fina	Hasegawa	Concerns
<u>SB 5559</u>	Paid sick leave verification	Concerning verification for use of paid sick leave.	S Labor, Comm & T	Van De Wege	Oppose
<u>ESSB 5599</u>	Journey level electricians	Concerning journey level electrician certifications of competency.	S Rules 3	Saldañaa	Neutral
<u>SB 5604</u>	Contractor licensing refs	Adding references to contractor licensing laws in workers' compensation, public works, and prevailing wage statutes.	S Rules X	Keiser	Concerns
<u>SB 5666 (HB 1767)</u>	Targeted electrification	Concerning the authority of publicly owned electric utilities to engage in targeted electrification through the adoption of plans that establish a finding that utility outreach and investment in the conversion of its customers' end use equipment from fossil fuels to electricity will provide net benefits to the utility.	S Environment, E	Lias	Oppose

<u>SB 5668</u> (HB 1766)	Gas companies	Modifying the regulation of gas companies to achieve reductions in greenhouse gas emissions.	S Environment, E	Lovelett	Oppose
<u>SB 5669</u> (ESHB 1770)	Energy codes	Strengthening energy codes.	S Environment, En	Liias	Oppose
<u>SB 5696</u> (HB 1912)	Capital gains tax/repeal	Repealing the capital gains income tax.	S Ways & Means	Braun	Support
<u>SSB 5744</u> (2SHB 1988)	Clean tech. tax deferrals	Concerning tax deferrals for investment projects in clean technology manufacturing, clean alternative fuels production, and renewable energy storage.	S Ways & Means	Nguyen	
<u>SSB 5783</u>	Underground economy	Reestablishing the underground economy task force.	S Rules 3	Conway	Neutral
<u>SB 5909</u>	Gubernatorial emerg. powers	Concerning legislative oversight of gubernatorial powers concerning emergency proclamations and unanticipated receipts.	S Rules 3	Randall	Support
<u>SB 5928</u>	State energy code	Increasing housing access and affordability by decreasing construction costs associated with the Washington state energy code for residential buildings.	S Environment, E	Van De Wege	Support
<u>SB 5932</u>	Sales and use tax rate	Reducing the state sales and use tax rate.	S Ways & Means	Das	Support
<u>SB 5960</u> (HB 1819)	Property tax exemption	Increasing the personal property tax exemption.	S Ways & Means	Hunt	Support
<u>SB 5962</u>	Conservation goal, 30%	Setting and achieving a 30 by 30 conservation goal.	S Ag/Water/Natur	Das	
<u>SB 5965</u>	Long-term care trust/repeal	Repealing the long-term services and supports trust program authorized in chapter 50B.04 RCW, including the repeal of taxes to be paid by employees through payroll deductions.	S Health & Long	Braun	Support
<u>SJM 8008</u>	Fossil fuel nonproliferation	Asking the United States Government to enter into a fossil fuel nonproliferation treaty.	S Environment, E	Das	Oppose
<u>SJR 8213</u> (HJR 4208)	Personal property taxation	Concerning the taxation of personal property.	S Ways & Means	Hunt	Support