

WORKER PROTECTION ACT



The 2020 Legislature can make enforcement more efficient by approving **HB 1965**

Nationwide, protections for workers are eroding as federal labor agencies' enforcement activities are curtailed and their missions are twisted against working people. Here in Washington, we have many great workplace laws that support our communities and families, like Equal Pay, Health and Safety, Minimum Wage and Paid Sick Days. But in some cases, enforcement agencies have years-long backlogs and struggle to keep up with individual violations.

At the same time, more corporations are requiring workers to waive their rights to go to court to enforce their workplace protections. That means if they experience harassment, wage theft or retaliation, a person's only option is to go through arbitration — a secret, expensive proceeding that lacks court protections and prevents workers from joining together, even if many people experienced the same violation. This puts a greater strain on our already stretched public agencies.

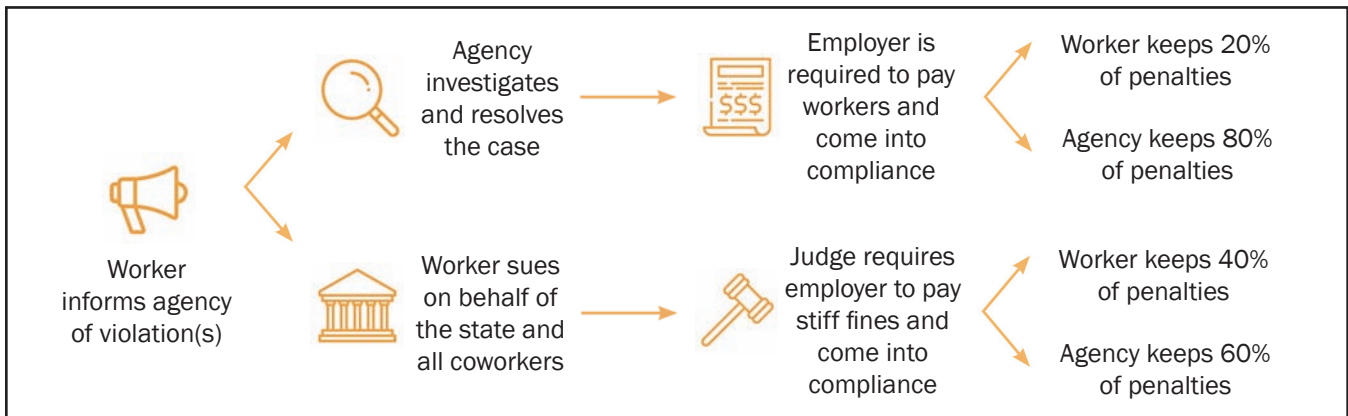
The Worker Protection Act creates a pathway for working people to blow the whistle when current laws are violated, while generating resources for

stronger state enforcement.

This is similar to a process Washington already successfully uses for Medicaid False Claims (also known as *qui tam*).

Here's how it works:

- First, a worker files a notice with the state agency describing the violation.
- That agency can investigate the claim and take steps to resolve the case before anything is filed in court.
- If the agency opts not to investigate, or does not respond, the worker can go to court to collect penalties on behalf of the state and all affected workers. People who fear retaliation can authorize a union or nonprofit organization to represent them.
- If a judge finds that the company broke the law and imposes a penalty, most of the penalty revenues go to the agency to help boost enforcement. And a portion goes to the whistleblower and the other workers injured by the violations.



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WHAT THE W.P.A. DOES

By creating a pathway for workers to blow the whistle when laws are violated, the Worker Protection Act:

Empowers People

- Workers may enforce existing workplace and discrimination protections on behalf of the State.
- Empowers workers at all level of employment – workers do not need to perform a sophisticated analysis to know if their work place is unsafe, or their wages have been stolen.
- Enables workers to fix systematic workplace issues by bringing claims that impact all of their coworkers.
- Protects workers and whistleblowers from retaliation.

Uses Successful Process

- This type of action, also known as *qui tam*, is successfully used elsewhere in government to enforce the law and prevent fraud.
- Washington Medicaid Fraud False Claims Act is used by our Attorney General to root out fraud and abuse in Medicaid.
- Federal False Claims Act protects whistleblowers in Federal contracting.

Provides Cost-Effective Enforcement

- Enforcing our laws helps make our state safer and the worker protection act generates revenue to help with future enforcement of our laws.
- As part of our protection laws, our state has authorized penalties to deter corporations from breaking the law – today, low enforcement means the state rarely collects these penalties.
- Under Worker Protection, if an agency does not investigate, 60% of the penalty goes to the State to help with future enforcement; 40% to the workers. If an agency does step in and take on the case, the state receives 80% of the penalty, while 20% goes to workers.
- From 2012 to 2016, the Washington Medicaid Fraud False Claims Act recovered \$6.1 million, amounting to a 3-to-1 return on enforcement investment.¹
- In 2017, the Federal False Claims Act was used to recover \$3.7 billion,² including \$125 million at the Hanford site.³

WHAT THE W.P.A. DOESN'T DO

- It does NOT create any new labor rights.
- It does NOT expand authority for state agencies.
- It does NOT create any new mandates for employers.

1. www.atg.wa.gov/news/news-releases/governor-signs-ag-request-bill-reauthorize-medicaid-fraud-law

2. www.justice.gov/opa/pr/justice-department-recovers-over-37-billion-false-claims-act-cases-fiscal-year-2017

3. www.justice.gov/opa/pr/united-states-settles-lawsuit-against-energy-department-contractors-knowingly-mischarging



In addition to Worker Protection Act, the Washington State Labor Council, AFL-CIO is supporting a range of issues that address economic opportunity and justice. Learn more at www.wslc.org or www.TheStand.org.

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