

State of Washington
Joint Legislative Audit & Review Committee (JLARC)



**Workplace Safety & Health Program:
Activities Are Responsive and Preventative,
Using Data-Driven Approaches**

Report 12-6

July 18, 2012

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alternative formats for persons with disabilities.*

Joint Legislative Audit and Review Committee

1300 Quince St SE

PO Box 40910

Olympia, WA 98504

(360) 786-5171

(360) 786-5180 Fax

www.jlarc.leg.wa.gov

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Nick Harper

Mike Hewitt

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JLARC's non-partisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

The statutory authority for JLARC, established in Chapter 44.28 RCW, requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the enclosed findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

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Committee Approval

On July 18, 2012, this report was approved for distribution by the Joint Legislative Audit and Review Committee.

Workplace Safety & Health Program: Activities Are Responsive and Preventative, Using Data-Driven Approaches Report 12-6

July 18, 2012



STATE OF WASHINGTON
JOINT LEGISLATIVE AUDIT AND
REVIEW COMMITTEE

STUDY TEAM
Elisabeth Donner

PROJECT SUPERVISOR
Valerie Whitener

LEGISLATIVE AUDITOR
Keenan Konopaski

Copies of Final Reports and Digests are available on the JLARC website at:

www.jlarc.leg.wa.gov

or contact

Joint Legislative Audit & Review
Committee
1300 Quince St SE
Olympia, WA 98504-0910
(360) 786-5171
(360) 786-5180 FAX

REPORT SUMMARY

Why a JLARC Study of Washington's Occupational Safety and Health Program?

In the 2011-13 Operating Budget (2ESHB 1087), the Legislature directed the Joint Legislative Audit and Review Committee (JLARC) to review the state's occupational safety and health program.

The intended result of government occupational safety and health programs is for employees to have safe and healthy workplaces, for example, by having appropriate protective equipment and using practices that help prevent accidents.

Federal Law Allows States to Administer Their Own Programs

The federal Occupational Safety and Health Act (OSHA) of 1970 establishes minimum occupational safety and health standards. The federal legislation gives states the option of having their own occupational safety and health programs.

Washington Administers Its Own Occupational Safety and Health Program

Washington is one of 25 states and two territories that administer their own occupational safety and health programs. Our state's standards are embodied in the Washington Industrial Safety and Health Act (WISHA) of 1973.

WISHA assigns the Department of Labor and Industries (L&I) primary responsibility for overseeing occupational safety and health. The Division of Occupational Safety and Health (DOSH) within L&I administers WISHA. As the administrator, DOSH carries out this responsibility by conducting inspections and free consultations, and by offering other compliance assistance resources to employers and employees.

JLARC's Review of L&I's Occupational Safety and Health Activities Resulted in Six Key Findings

This study reviewed L&I's Division of Occupational Safety and Health (DOSH) inspection and consultation processes, in addition to the other compliance assistance resources DOSH and L&I offer to employers and employees. The focus of these activities is to help prevent injuries and illnesses. During the course of our review, we identified six key findings:

- 1. Employers and employees have specific responsibilities for ensuring safe and healthy workplaces.**
- 2. L&I's Division of Occupational Safety and Health (DOSH) is in compliance with state and federal law.**
- 3. DOSH allocates resources for data-driven prevention activities.**
- 4. DOSH communicates with employers and employees in a variety of ways and is working to make additional communication improvements.**
- 5. Peer-reviewed research found a reduction in injury and illness claims with businesses that received a DOSH inspection or consultation.**
- 6. Comparing Washington's program and injury and illness rates to other states is difficult and can lead to erroneous performance conclusions.**

The study does not have recommendations.

OCCUPATIONAL SAFETY AND HEALTH PROGRAMS – STRUCTURE AND RESPONSIBILITIES

The Federal Occupational Safety and Health Act Establishes Minimum Standards

The federal Occupational Safety and Health Act (OSHA) of 1970 establishes minimum standards for safety and health in the workplace. The federal legislation gives states the option of having their own programs. A state program must be at least as effective as the federal program and must, at a minimum, cover public sector employers and employees. Absent a state program, the federal government enforces the federal standards. See Appendix 3 for a listing of the 25 states and two territories that have chosen to administer their own occupational safety and health programs.

Employers and Employees Have Specific Responsibilities for Ensuring Safe and Healthy Workplaces

While government programs establish and enforce safety and health standards and provide safety and health information, the responsibility for workplace safety and health rests largely with employers and employees. State statutes and federal law provide guidance on employer and employee responsibilities. Employers and employees are required to comply with safety and health standards established through these laws.

Using Washington as an example, employers are required to provide a workplace “free from recognized hazards that are causing or likely to cause serious injury or death to his or her employees” (RCW 49.17.060). The core rules (Chapter 296-800 WAC) address general requirements and requirements for specific hazards, such as:

- An accident prevention program (WAC 296-800-140);
- The use of personal protective equipment to protect the eyes, face, head, body, etc. (WAC 296-800-160); and
- Identification of chemical hazards and handling chemicals (WAC 296-800-170).

Other rules provide direction for employers with requirements related to specific workplace activities such as electrical work, welding, and logging operations.

If an employer in Washington voluntarily complies with rules and regulations and provides his or her employees with a safe and healthy workplace, the employer will not be subject to a penalty upon inspection.

Employees’ responsibilities include compliance with statute, “rules, regulations, and orders...which are applicable to his or her own actions and conduct in the course of his or her employment.”

Employees may report violations they believe threaten physical harm to employees or present the existence of imminent danger (RCW 49.17.110). Administrative rule further states that employees must “do everything reasonably necessary to protect the life and safety of employees” (WAC 296-800-12005).

Federal Oversight of State Administered Programs

The federal Occupational Safety and Health Administration (OSHA) monitors state programs. Monitoring activities for states with their own programs include annual reviews (with on-site monitoring) that result in an annual report, quarterly meetings and data reviews, and ongoing monitoring as rules and policies change in the federal and state programs.

During an annual review, federal staff look at program performance based on information such as:

- Federal policies and procedures, state policies and procedures that have received federal approval, and established federal measures;
- State’s annual operating plan, state’s five-year strategic plan, and new state changes.

L&I’s Division of Occupational Safety and Health Administers Washington’s Program

Washington’s standards are embodied in the Washington Industrial Safety and Health Act (WISHA) of 1973. WISHA covers nearly all employers and employees in the state, including state, county, and city governments, and private businesses. There are exceptions for federal agencies and workplaces on federal installations and floating worksites (e.g., fishing boats, construction barges, and floating dry docks).

Washington’s program is administered by the Department of Labor and Industries’ (L&I) Division of Occupational Safety and Health (DOSH). DOSH is one of six divisions within L&I as illustrated in Exhibit 1 below.

Exhibit 1 – Within L&I, DOSH Administers Washington’s Occupational Safety and Health Program



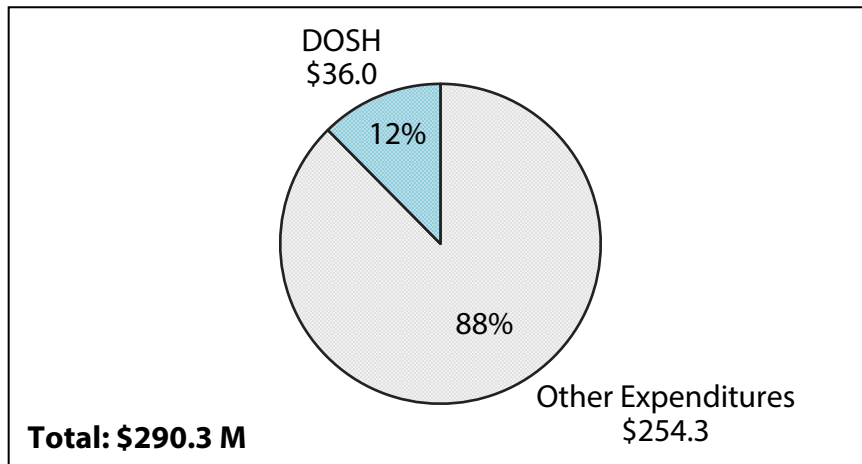
Source: Department of Labor and Industries organizational chart, November 2011.

As the administrator of the state’s occupational safety and health program, DOSH’s responsibilities include, but are not limited to, conducting inspections and free consultations and providing other compliance assistance resources for employers and employees. These activities do not include workers’ compensation claims management. This responsibility lies with Insurance Services.¹

Washington is one of two states (Wyoming is the other) that house their safety and health program in the same state agency as industrial insurance. According to L&I, Washington is the only state that also has a research program dedicated to preventing workplace injuries and illnesses in the same state agency as the safety and health program and industrial insurance. For Washington, this organizational relationship allows for the sharing of real-time workers’ compensation claims data and workplace safety and health inspection data. This allows the state to conduct research for prevention and to help determine how to set priorities for inspections, consultations, and outreach activities.

In Fiscal Year 2010, DOSH operating expenditures totaled \$36.0 million (\$29.3M State; \$6.7M Federal). These expenditures represented 12 percent of L&I’s total operating expenditures of \$290.3 million. The three largest categories of expenditures for DOSH, representing \$13.2 million (37 percent of \$36.0 million), were for field work with safety inspections, consultations, and industrial hygiene (health) inspections. Exhibit 2 illustrates this information.

Exhibit 2 – FY2010 DOSH Expenditures Were 12 Percent of L&I’s Operating Budget



Source: Washington State Department of Labor and Industries, Division of Occupational Safety and Health.

¹ JLARC has a future study on claims management; due in June 2015.

EVALUATING WASHINGTON'S OCCUPATIONAL SAFETY AND HEALTH PROGRAM

L&I's Division of Occupational Safety and Health Complies with State and Federal Law

Federal and state laws require L&I to conduct inspections and consultations. L&I's Division of Occupational Safety and Health (DOSHS) is responsible for administering the law and is in compliance with these requirements. Safety and health compliance officers inspect worksites for unsafe and unhealthy working conditions. Inspections enforce safety and health standards to help ensure safe and healthy working conditions for employees. Upon request of an employer, DOSHS consultants can provide free guidance through an evaluation of the workplace, practices, and accident prevention programs. These consultants help employers create safe and healthy workplaces and manage risk.

DOSHS prioritizes activities based on federal requirements. The top priorities for inspections and consultations are focused on actions taken in response to concerns, injuries and illnesses, and complaints. For example, the top three priorities for DOSHS compliance officers are inspecting situations with imminent danger, inspecting fatalities and hospitalizations, and responding to complaints and referrals concerning potentially hazardous conditions. Compliance officers inspect the workplace, looking for the cause(s) of the injuries and illnesses and for potential hazards. This information may also help prevent other injuries and illnesses like it from happening again. Per federal requirements, a lower priority is for inspections that are "programmed," which are selected by DOSHS staff. These programmed inspections comprise the majority of the inspections and take place at high-risk businesses identified by DOSHS staff through analysis of data on workers' compensation and DOSHS inspections.

DOSHS consultants respond to requests as they are made by employers based on availability. Consultants must prioritize the requests based on a required order of priority established by the federal program (OSHA). The top two priorities for consultations are for situations involving imminent danger and small businesses that are in high-hazard industries. Consultation requests can be made for a variety of reasons, such as assistance with fixing an existing problem, guidance on technical questions, and evaluating the workplace to identify potential problems.

Previous federal annual reviews from 2009 and 2010 have not identified any serious issues with Washington's program. The federal program has praised Washington's program in the annual monitoring reviews indicating that the program is in compliance with federal law, is meeting or exceeding the federal and state approved strategic goals and notes that "...DOSHS is operating an effective program overall..."

DOSH Allocates Its Compliance Assistance Resources for Data-Driven Prevention Activities

Unlike the specific requirements for inspections and consultations, federal and state law offer less specificity about the other part of DOSH's role in administering Washington's safety and health program – offering compliance assistance activities to employers and employees such as training and outreach. DOSH staff use data to allocate resources for prevention activities. Emerging needs are identified by staff who then allocate the remaining compliance assistance resources offered to employers and employees based on these needs. DOSH staff identify these needs in two main ways:

1. Staff monitor injury and illness claims data, looking for patterns of emerging hazards such as an increase in issues with confined storage spaces. In interviews with several experts, they stated that only Washington's data is detailed enough to identify emerging hazards.
2. Staff respond to training requests made by businesses and industry associations such as learning when emergency eyewash stations are required and how to use them to prevent serious injuries.

Washington is able to use the information from these two sources to proactively adjust its resources as needed for prevention activities. As discussed below, these prevention activities include communication and outreach to employers and employees.

DOSH Communicates with Employers and Employees in a Variety of Ways

There are about 200,000 employers and 250,000 worksites in Washington. DOSH has noted that education and outreach efforts are critical to reaching as many employers and employees as possible across the state. DOSH employs a variety of communication strategies, including the examples they have reported below:

Resources

- Maintenance of website with health and safety requirements, resources, and alerts with an average of 890,000 page views per month.
- Access to printed information provided directly to employers averages 8,500 per month.
- Maintenance of a 1-800 phone number for additional assistance.
- Availability of videos and DVDs from a library, serving over 10,000 customers per month.
- Staff create new training workshops as the needs arise and modify existing workshops as needed.
- Availability of sample forms to assist employers with required documentation, such as a "safety plan."

Outreach

- Every month DOSH sends an average of 5,000 pieces of mail to regularly communicate with “new” employers about DOSH and employers’ responsibilities for a safe and healthy workplace.
- DOSH consultants cold call businesses, as time permits, asking if they are interested in a free consultation.
- DOSH participates in the Governor's annual safety and health conference and several industry-specific events throughout the year.
- DOSH communicates with associations and professionals (e.g., Associated General Contractors (AGC), Building Industry Association of Washington (BIAW)) that interact with businesses on a regular basis (e.g., Association of Washington Businesses website includes link to DOSH consultations).
- DOSH works with the departments of Commerce, Revenue, and Employment Security to coordinate outreach activities, maintain a multi-agency business website, and partner for providing training workshops.

Mailings

- Distribution of outreach and regulatory materials to all known employers through postal mailings, listserves, Facebook, and Twitter with information such as the core rules, notification of online access to the rules and tools, and how employers can access a paper or CD copy of the rules. Targeted mailings are based on the occurrence of emerging hazards, adoption of new rules, legislative changes, etc.
- DOSH utilizes five major industry-specific listserves, available for those who have provided their email address, with information such as hazard alerts and updates on rules. DOSH averages two posts per month.

JLARC’s review of outreach techniques employed by the Department of Revenue and the Employment Security Department confirmed that DOSH uses many of the same practices employed by these other state agencies to connect with employers and employees.

Small Businesses Have Access to Additional Resources from Other Areas in L&I

For the past six years L&I has also provided small business assistance through the Small Business Liaison Office, to enable people to comply with the law. The activities of the office include educational outreach on occupational safety and health requirements. L&I has a full time, dedicated position assigned to assist small businesses. Other state agencies have since assigned their own staff to assist small businesses among other duties.

In October 2010, the Governor issued an Executive Order “Improving the Way Government Serves Small Businesses.” As a result of this Executive Order:

- A multi-agency workgroup organized under this Executive Order created a website geared toward small business assistance, which includes access to information about businesses’ workplace safety and health obligations.
- An outside consultant found L&I’s inspection processes, including workplace safety and health, to be streamlined compared to other state agencies.

- Department of Commerce staff who coordinated the Executive Order workgroup described L&I as one of the leaders among state agencies in its outreach to stakeholders.

DOSH and L&I are Self-Evaluating and Working to Make Improvements in Outreach

L&I as a whole, including DOSH, reports they are trying to improve the effectiveness of written communication utilizing “Plain Talk” principles. The agency has also increased the availability of information provided in Spanish.

DOSH is in the process of implementing several projects for improving areas such as customer satisfaction and its website:

- Results of customer satisfaction surveys conducted by an outside consultant engaged by L&I in 2000 and 2003 note that 97 percent of clients who had a DOSH consultation were somewhat or mostly satisfied with DOSH consultants. The same was true with 83 percent of clients who had a compliance inspection were somewhat or mostly satisfied with DOSH inspectors.
- A new customer satisfaction survey is currently underway with an outside consultant engaged by L&I, called “Building a Better Customer Experience at L&I,” with an expected completion date of late Spring or early Summer 2012.
- DOSH is also in the process of improving the usability of its website. Staff are designing the website to accommodate the non-experienced website user. They are doing this with the goal to ensure that it is easy for the public to navigate the information provided.

Structural barriers limit DOSH's ability to reach all of Washington's employers and employees. For example:

- Unlike the Department of Revenue and L&I's industrial insurance program, there is no required registration process with DOSH so DOSH does not know all of the businesses in the state, and not all the businesses are aware of DOSH.
- While DOSH maintains listserves that provide industry-specific information, only those businesses that voluntarily choose to provide their email address to DOSH can access the information and receive notices.

Additionally, L&I's Small Business Liaison Office has noted that small businesses do not necessarily know that they have a legal responsibility associated with a safe workplace or understand the financial impact as a result of an injury or illness. The office states that one of their tasks is to improve its targeted communication to add further clarity to the message.

Peer-Reviewed Research Found Reduction in Claims after DOSH Activity

The Safety and Health Assessment and Research for Prevention (SHARP) is the independent research program within L&I. In May 2011, SHARP completed an evaluation of the effect of DOSH's enforcement and consultation activities on compensable claims rates over a ten-year period. This research, peer-reviewed by the American Journal of Industrial Medicine, found a statistically significant decrease in injury and illness rates with businesses that received a DOSH

inspection or consultation. The effect was even greater when looking only at compensable claims that are not related to musculoskeletal disorders for which there is no regulatory standard. Inspections resulting in a citation of non-compliance, which may result in penalties, had the greatest impact.

There have been similar findings for the federal program (OSHA) with a decrease in injury rates when a business has received an inspection that resulted in a penalty.

JLARC spoke with national experts from the Bureau of Labor Statistics, the Government Accountability Office, and the National Institute for Occupational Safety and Health about whether similar studies were available on impacts from programs in other states. These experts stated that similar studies are not available, likely due to a lack of data.

Comparing Washington's Program and Injury and Illness Rates to Other States Is Difficult and Can Lead to Erroneous Performance Conclusions

Comparing different state programs can lead to erroneous conclusions about performance due to the differences in how occupational safety and health programs are administered, the variety of factors that may affect injury and illnesses rates as identified by experts, and the difficulties associated with standardizing the available data across programs. The experts JLARC staff interviewed for this study agree that making comparisons across state programs is difficult at best. While researchers are able to compare specific industry rates against one another, the number of variables that impact state programs preclude such a comparison across state programs.

Existing research discusses these issues and notes that occupational injuries can be affected by the activities of employees, employers, and the government. Research concludes that government is able to intervene through the establishment and enforcement of safety standards and the provision of safety information.

Additional research identifies examples of other ways in which injury and illness rates can be affected by issues unrelated to the performance of the state's safety and health program. These other factors fall into three areas: theories about economic factors, state policy factors, and data availability.

Theories about Economic Factors

Theories about economic factors vary and include many possible factors that could affect injury and illness rates, such as:

- Labor market differences, including the role of labor unions.
- Employees and employers respond to safety incentives in different ways (e.g. presence of less or more risk-averse employees and differences in technology and its costs across industries).
- Workers' compensation may alter incentives for reporting injuries without changing the true level of safety (Generally, an increase in benefits results in an increase in claims).

Differences in State Policy Factors

Experts say there are many factors that may affect injury and illness rates. Some of the factors related to state policy choices identified by experts include:

- The extent of injury and illness claim coverage;
- Whether employees pay into the workers' compensation insurance program;
- The number of days before compensation is paid to the worker; and
- The amount of benefits paid.

Differences in Availability of Data

There are also differences in the type and amount of data that is available across occupational safety and health programs. Experts note difficulties associated with the use of available data for the purposes of making comparisons on performance. Some of these difficulties include the following:

- The source of the injury and illness rate data across the states is self-reported by businesses chosen for a national survey by the Bureau of Labor Statistics. The quality of the reported data is dependent on the level of understanding the individual filling out the form has regarding current OSHA record-keeping guidelines.
- A researcher would need to standardize the data by comparing data within a single industry or sub-industry. For example, the construction of buildings is a sub-industry within the construction industry. There are many factors that differ across industries and sub-industries that could affect the rates, such as the characteristics of a worksite. However, this level of detail is not available from every state in the same industry or sub-industry.
- By collecting data across time, researchers can better control for random fluctuations from year-to-year. However, the same categories of data are not necessarily available in every state from one year to the next.
- When defining performance using injury rates, perceptions of a "safe" state may change when looking at injury rates as a whole versus separating out fatal versus non-fatal rates. Research has found a negative correlation between non-fatal and fatal injury rates (when non-fatal injuries are high, fatal injuries tend to be low) in the construction industry. The research looked only at correlation, but a multivariate study would be needed to determine causality.

See Appendix 4 for a list of research references.

In Summary: JLARC's Review of L&I's Occupational Safety and Health Activities Resulted in Six Key Findings

This study reviewed L&I's Division of Occupational Safety and Health (DOSH) inspection and consultation processes, in addition to the other compliance assistance resources DOSH and L&I offer to employers and employees. The focus of these activities is to help prevent injuries and illnesses. During the course of our review, we identified six key findings:

- 1. Employers and employees have specific responsibilities for ensuring safe and healthy workplaces.**
- 2. L&I's Division of Occupational Safety and Health (DOSH) is in compliance with state and federal law.**
- 3. DOSH allocates resources for data-driven prevention activities.**

4. **DOSH communicates with employers and employees in a variety of ways and is working to make additional communication improvements.**
5. **Peer-reviewed research found a reduction in injury and illness claims with businesses that received a DOSH inspection or consultation.**
6. **Comparing Washington's program and injury and illness rates to other states is difficult and can lead to erroneous performance conclusions.**

The study does not have recommendations.

APPENDIX 1 – SCOPE AND OBJECTIVES

WORKPLACE SAFETY AND HEALTH

SCOPE AND OBJECTIVES

SEPTEMBER 21, 2011



STATE OF WASHINGTON
JOINT LEGISLATIVE AUDIT
AND REVIEW COMMITTEE

STUDY TEAM

Elisabeth Donner
Eric Thomas

PROJECT SUPERVISOR

Valerie Whitener

LEGISLATIVE AUDITOR

Keenan Konopaski

Joint Legislative Audit &
Review Committee
1300 Quince St SE
Olympia, WA 98504-
0910
(360) 786-5171
(360) 786-5180 Fax

Website:

www.jlarc.leg.wa.gov
e-mail:
barbara.neff@leg.wa.gov

Workplace Safety and Health Programs

Across the country, laws and regulations are in place to help businesses and workers maintain safe work environments for employees. These requirements address avoidance of both workplace injuries and illnesses.

The federal Occupational Safety and Health Act (OSHA) of 1970 establishes minimum workplace safety and health standards. The federal legislation gives states the option of having their own workplace safety and health programs.

Why a JLARC Study of Washington's Workplace Safety and Health?

In Washington, the state administers a workplace safety and health program, which includes workplace inspections and consultation visits, training for employers and employees, and outreach activities. In the 2011-13 Operating Budget (2ESHB 1087), the Legislature directed the Joint Legislative Audit and Review Committee (JLARC) to review the state's workplace safety and health program.

Washington Administers Its Own Workplace Safety and Health Program

A state program must be at least as effective as the federal program, and the federal government maintains oversight and monitoring of state enforcement activities. Absent a state program, the federal government enforces the federal standards.

Washington is one of 25 states (and two territories) that administer their own workplace safety and health programs. Our state's standards are embodied in the Washington Industrial Safety and Health Act (WISHA) of 1973.

The Department of Labor and Industries Administers WISHA through the Division of Occupational Safety and Health

WISHA gives the Department of Labor and Industries (L&I) primary responsibility for overseeing workplace safety and health. The Division of Occupational Safety and Health (DOSHA) within L&I administers WISHA. As the administrator, DOSHA carries out this responsibility by conducting inspections and free consultations, and providing compliance assistance to businesses.

In Fiscal Year 2010, DOSHA operating expenditures totaled \$36.0 million (\$29.3M State; \$6.7M Federal). These expenditures represented 12 percent of L&I's total operating expenditures of \$290.3 million.

Study Scope

The study will focus on the Division of Occupational Safety and Health’s (DOSH) safety and health inspection process, consultations, and compliance assistance opportunities for businesses. The study will describe the activities conducted by DOSH and identify the strategies used in Washington to reduce workplace injuries and illnesses. The study will also compare Washington’s injury and illness rates to rates in other states and to the federal program.

Study Objectives

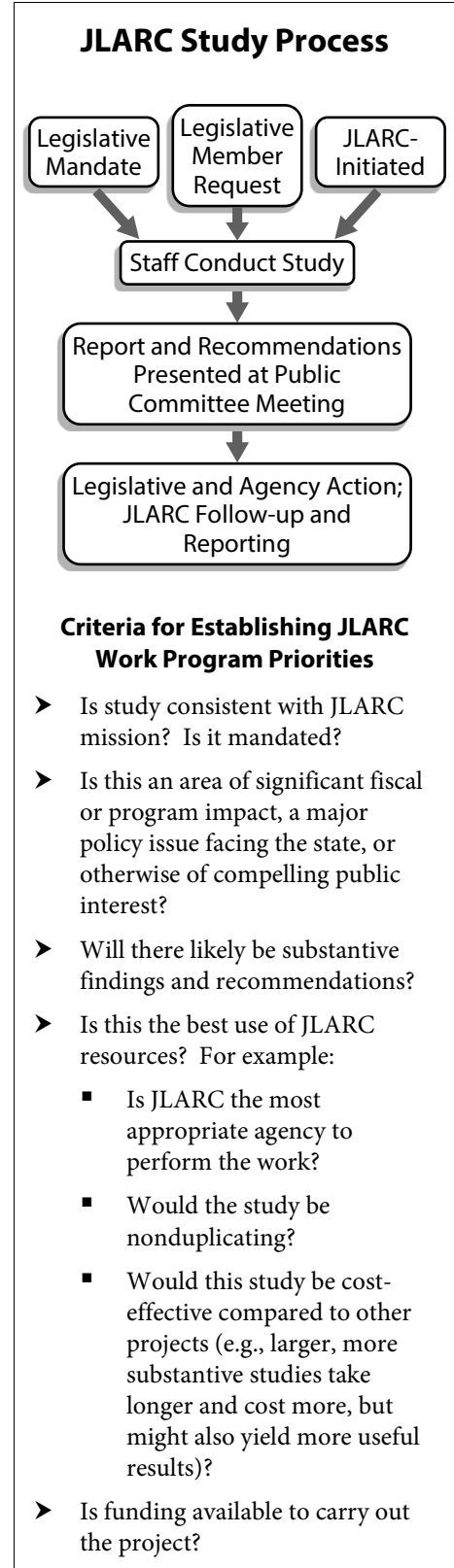
- 1) How does Washington’s occupational safety and health program compare to programs in other states with state plans and to the federal program?
- 2) How do Washington workplace injury and illness rates compare to rates in other states with state plans and to the federal program?
- 3) What does research show about the impact of inspections and compliance assistance on workplace injury and illness rates?
- 4) How does Washington’s occupational safety and health program determine where to focus its inspection and compliance assistance efforts?
- 5) How can a Washington business or worker find out about and access compliance assistance activities offered by the Division of Occupational Safety and Health?

Timeframe for the Study

Staff will present the preliminary and final reports at the JLARC meetings in April and May 2012, respectively.

JLARC Staff Contact for the Study

Elisabeth Donner (360) 786-5190 elisabeth.donner@leg.wa.gov



APPENDIX 2 – AGENCY RESPONSES

- Department of Labor and Industries

Note: JLARC also requested a response from the Office of Financial Management (OFM). OFM responded that they did not have comments on this report.



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
PO Box 44000 • Olympia, Washington 98504-4000

May 22, 2012

Keenan Konopaski, Legislative Auditor
Joint Legislative Audit & Review Committee
PO Box 40910
Olympia, Washington 98504-0910

RE: Workplace Safety & Health Program Report

Dear Mr. Konopaski:

The Department of Labor and Industries (L&I) has received JLARC's May 17, 2012 preliminary report on Washington's workplace safety and health program. We recognize and appreciate the significant investment of resources by JLARC staff that went into conducting this study. We are happy to have had the opportunity to participate in a thorough independent review of Washington's workplace safety and health program, and are pleased that the findings reinforce the successes of our work and its importance. Thank you for your time and attention to ensuring that L&I's services and programs provide a good return on the investment of public funds.

We know from the 10-year study of the Division of Occupational Safety and Health's (DOSH) enforcement inspections and consultation visits conducted by L&I's SHARP program (page 10, last paragraph) that DOSH activities make a significant contribution to reducing workers' compensation claims rates and costs in the year following the visit. When claims for workplace musculoskeletal disorders (WMSDs) for which there are no relevant regulatory rules are excluded from the rates analysis, the effect of DOSH activities is substantially greater.

- For the 10 years of the study, workers' compensation savings for employers in the study was \$3.9 million annually due to DOSH enforcement activities.
- When this impact is extrapolated to all DOSH enforcement interventions in each of those years, the annual workers' compensation savings totals \$30.5 million.
- Citations have a powerful effect on time-loss injuries. Non-WMSD claims rates fell by more than triple the amount at worksites receiving a citation than at those having an enforcement visit without a citation.

JLARC's report notes that L&I is engaged in making improvements in customer service including working with an independent consultant to measure customer satisfaction in key business areas (3rd bullet on page 10). We have just received excellent baseline survey results indicating that 80 percent of employer and employee representatives who we inspected and cited

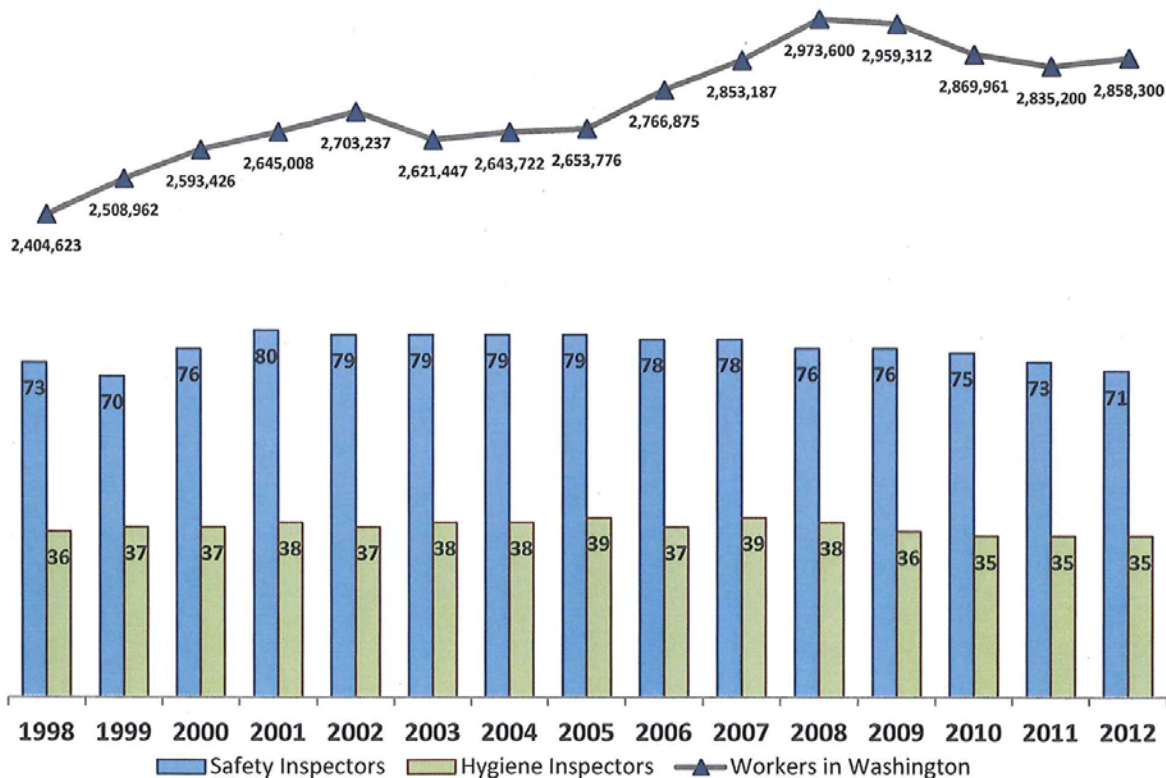
Keenan Konopaski
 May 22, 2012
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for workplace safety and health violations rated their overall inspection experience as good or very good, while 14 percent rated their experience as average and only six percent rated it as poor or very poor. Eighty-seven percent of employer representatives and 90 percent of worker representatives rated their experience with the DOSH inspector who visited their workplace as very good or good.

Future Opportunity

While we are very encouraged by the results of the DOSH customer experience survey and SHARP’s research on the outcome of DOSH services, we have the opportunity to reduce claims further.

The worker population in Washington State has risen steadily over the past 15 years for an overall increase of 18.9% while the number of compliance inspectors has actually decreased by 2.8%. (Seven crane safety inspector positions included in the crane safety legislation passed in 2007 are not included as they have a separate legislatively mandated workload.) It will take 21 more compliance inspector FTEs just to restore the same presence that we had in 1998 based on the growth in businesses and workers.



Increasing FTEs through the use of workers’ compensation 608/609 funds, would allow us to perform an impactful number of scheduled proactive inspections and provide more workplace consultations, resulting in direct savings to the workers’ compensation system and reducing the human tragedy of preventable serious injuries, illnesses and worker deaths. In addition to the

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industrial insurance costs and other employer costs that occur when a worker is injured or killed on the job, workplace injuries and deaths create an additional economic and societal burden by reducing personal and family income and increasing the need for other public services.

A logical approach would be to start with the top 10 most hazardous industries using claims rate and employer size criteria. At this level, DOSH would need to inspect about 60,000 different employer locations. The table below shows estimated costs and potential savings based on inspection, a five year inspection, frequency for all employers in the top 10 most hazardous industries. With our current level of staffing, it takes 41 years to visit all employers and it would take over twenty years to visit the top 10 industry employers just once.

Inspection Frequency for the top 10 most hazardous industry employers	Number of Inspectors required above current level	Cost of additional Inspectors	Number of Consultants recommended	Extrapolated estimated annual Workers Compensation cost savings based on SHARP Report
Once every 5 years	240	\$21 million	75	\$65 million

Strengthening DOSH Authority

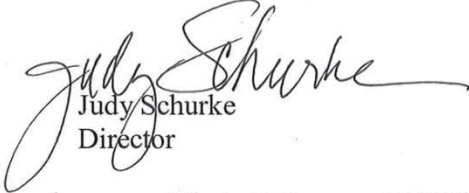
Another concern is whether statutory penalties are sufficient to create a strong enough deterrent effect that will leverage public resources and encourage higher levels of voluntary compliance. Statutory WISHA penalties have not increased since 1991, when they were raised to a maximum of \$7,000 for a serious violation, and \$70,000 for a willful or repeated violation. Our average penalty for serious violations (\$737 in FFY 2011) is one of the lowest in the nation, ranking 44th out of 50 states. The statutory penalty levels have only been changed twice in almost 40 years since the Washington Industrial Safety and Health Act (WISHA, Chapter 49.17 RCW) was passed in 1973, and should be updated. Additionally, available regulatory sanctions for rare catastrophe and fatality cases have an especially weak deterrent effect at best. We are looking into these issues for possible changes.

Mr. Konopaski, thank you again for the time and effort you have invested in this study. We look forward to presentation of the final report to the JLARC Committee on June 20th. During the past year while the review was underway, we have been especially impressed by the professionalism, thoughtfulness, and skills of lead research analyst Elisabeth Donner. Ms. Donner was always patient, cordial, and respectful while working with L&I staff and our colleagues at the federal Occupational Safety and Health Administration (OSHA). Her substantive knowledge and audit management skills were highly instrumental in this being a good experience for L&I staff in the Division of Occupational Safety and Health (DOSH) and the Safety and Health Assessment and Research for Prevention (SHARP) program. Ms. Donner’s advance preparation for each meeting, thorough analysis of issues and timely follow-up facilitated the provision, discussion and exchange of information necessary to conduct a study of this length and scope. Please extend our sincere appreciation to her.

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When the final report with the results of the DOSH Customer Experience survey is available, we will forward a copy to your office. If you have any questions or need additional information at any time, please contact Anne Soiza, Assistant Director, Division of Occupational Safety & Health at (360) 902-5090, anne.soiza@lni.wa.gov or Janet Kenney, Operations Manager at (360) 902-5430, janet.kenney@lni.wa.gov.

Sincerely,


Judy Schurke
Director

cc: Elisabeth Donner, JLARC Study Team
Valerie Whitener, Project Supervisor
Carole Washburn, Deputy Assistant Director
Tamara Jones, Assistant Director
Legislative & Government Affairs
Anne Soiza, Assistant Director
Division of Occupational Safety & Health
Janet Kenney, Operations Manager, DOSH
Barbara Silverstein, Research Director, SHARP

APPENDIX 3 – STATES THAT ADMINISTER THEIR OWN OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

Twenty-five states and two territories have chosen to administer their own occupational safety and health program. Of these, 21 states and one territory, including Washington, administer a program that covers both the public and private sectors.

Exhibit 3 – Twenty-one States and One Territory, Including Washington, Administer Their Own Program that Covers Both Public and Private Sectors

States and Territories*	Public & Private	Public-Only
Alaska	✓	
Arizona	✓	
California	✓	
Connecticut		✓
Hawaii	✓	
Illinois		✓
Indiana	✓	
Iowa	✓	
Kentucky	✓	
Maryland	✓	
Michigan	✓	
Minnesota	✓	
Nevada	✓	
New Jersey		✓

States and Territories*	Public & Private	Public-Only
New Mexico	✓	
New York		✓
North Carolina	✓	
Oregon	✓	
<i>Puerto Rico</i>	✓	
South Carolina	✓	
Tennessee	✓	
Utah	✓	
Vermont	✓	
<i>Virgin Islands</i>		✓
Virginia	✓	
Washington	✓	
Wyoming	✓	

* Territories are identified in *italics*.

Source: Summary of Federal Occupational Safety and Health Administration information as of January 2012.

Thirteen of the 21 states and one territory that cover both the public and private sectors in their occupational safety and health programs offer a state-run workers' compensation insurance program. States differ as to whether they offer an alternative to the state-run insurance program. Washington offers qualified businesses the option of state-insurance or self-insurance.

Exhibit 4 – Thirteen of the Twenty-One States and One Territory that Cover the Public and Private Sectors Offer a State-Run Insurance Program for Businesses

States and Territories ¹	State Insurance	Self-Insurance ²	Private Insurance ³
Alaska		✓	✓
Arizona	✓	✓	✓
California	✓	✓	✓
Hawaii	✓	✓	✓
Indiana		✓	✓
Iowa		✓	✓
Kentucky	✓	✓	✓
Maryland	✓	✓	✓
Michigan		✓	✓
Minnesota	✓	✓	✓
Nevada		✓	✓
New Mexico	✓	✓	✓
North Carolina		✓	✓
Oregon	✓	✓	✓
<i>Puerto Rico</i>	✓		
South Carolina	✓	✓	✓
Tennessee		✓	✓
Utah	✓	✓	✓
Vermont		✓	✓
Virginia		✓	✓
Washington	✓	✓	
Wyoming	✓		

1. Territories are identified in *italics*.
2. Self-Insurance refers to the option for a company to set aside money to cover possible losses rather than purchasing an insurance policy.
3. Private Insurance refers to the option for a company to purchase an insurance policy through a third-party administrator.

Source: Summary of information from the Washington State Department of Labor and Industries and the American Association of State Compensation Insurance Funds, www.aascif.org.

APPENDIX 4 – BIBLIOGRAPHY

The following list is a selection of research references on workplace injury and illness rate analysis.

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