

Wage, Child Labor and Protected-Leave Investigations

2014 Annual Report to the Governor

November 2014

Table of Contents

Executive Summary	1
Introduction	3
2014 Information Update	4
Wage violations	4
Child labor	5
Protected leave	6
Challenges during 2014.....	8
Conclusion	9
Future actions.....	9
Figures	
Figure 1: Wage violations	4
Figure 2: Child labor information.....	6
Figure 3: Protected-leave activity.....	7

Executive Summary

Introduction

The Department of Labor and Industries (L&I) protects the safety, health and security of Washington's workers and citizens and L&I's Employment Standards Program is charged with carrying out state laws that protect workers' wages and working conditions.

Pursuant to RCW 49.12.180, L&I submits this report to the Governor annually to provide updated information about investigations and proceedings related to worker wages, child labor and protected leave.

2014 Information Update

Wage violations

Washington's Legislature passed the landmark Wage Payment Act in 2006, giving L&I administrative authority to cite employers for unpaid wages. The majority of worker rights complaints filed with L&I are wage complaints, submitted by individual workers for unpaid wages. Since the Wage Payment Act was passed, L&I has collected and returned about \$15 million in unpaid wages to nearly 24,000 Washington workers.

In FY 2014, L&I had 16 field agents throughout the state investigating wage complaints and working with employers to return money owed to workers. During this period, the department collected and returned just over \$2.1 million to about 4,000 workers. About 38 percent of this money was collected from employers without issuing formal citations.

Child labor

L&I's staff includes:

- One child-labor program specialist.
- One protected-leave specialist.
- One field agent who investigates both protected-leave complaints and violations of child-labor laws.
- Field agents who investigate child-labor complaints, as needed, throughout the state.

Although the number of complaints regarding child labor and protected leave is small compared to the number of wage complaints, these issues are of critical importance to L&I. Complaints can require rapid staff response, especially with regard to child labor. Child-labor complaints often require on-site visits to ensure the child's safety. Investigations involving allegations of prohibited job duties require significant time commitments.

Protected leave

A protected-leave violation may occur when an employer does not allow employees to take leave as required under the laws of the Washington Family Leave Act or the Washington Family Care Act.

L&I's protected-leave staff investigates complaints about violations of protected-leave laws and determines whether a violation has occurred. Public education is also a major emphasis.

Challenges during FY 2014

Increased volume: L&I has experienced a 22 percent increase in wage complaints, and expects to continue to see a significant increase in wage complaints for a number of reasons.

- In FY 2014, L&I made improvements to its complaint tracking, collections data and wage-complaint filing technologies to help reduce delays and improve service to customers. For the first time, employees can file a wage complaint with L&I electronically and this naturally increases volume.
- The growing economy has increased hiring, which in turn has increased wage complaints. About 40 percent of wage complaints are from employees who have not received their final paycheck from their previous employers. Employees have up to three years to file a wage complaint, and they typically wait to file one until they have found a new job elsewhere. Increased movement in the labor force means more workers are starting new jobs and then filing complaints, which adds to the case backlog.
- A recent court decision dealing with meal and rest-break cases is under review. Depending on the outcome, this may significantly affect L&I's workload and resources. Company-wide investigations are also resource-intensive because they're not covered by the Wage Payment Act; therefore, they are coordinated with the Assistant Attorney General's office to be heard in Superior Court.

The extra volume justifies three additional investigators at this time. L&I is hiring three temporary staff and will determine permanent staffing needs over time.

Conclusion

L&I has a successful history of collecting and returning wages to Washington's workers. Allegations of child-labor violations are a high priority for L&I, and they're given swift attention and investigation. The new Protected-Leave Program is working not only to investigate allegations of leave violations, but to educate the public about these laws. Online complaint-filing technology is allowing more workers to file wage complaints faster and easier.

Recaps of FY 2014 include:

- L&I collected just over \$2.1 million in wages, returned to approximately 4,000 workers (about 38 percent of this money was collected without formal citations).
- L&I made improvements to its complaint tracking, collections data and wage-complaint filing technologies to help reduce delays and improve service to customers. For the first time, employees can file a wage complaint with L&I electronically

Introduction

The Department of Labor & Industries (L&I) protects the safety, health and security of Washington's workers and citizens. L&I's Employment Standards Program carries out state laws that protect workers' wages and working conditions. This includes ensuring that employers:

- Pay legally required wages.
- Provide safe working conditions.
- Assure rest and meal breaks.
- Allow appropriate leave.
- Follow rules about minor workers' ages, restrictions on work hours, equipment use and training.

Each year, L&I's agents successfully investigate thousands of wage, leave and child-labor complaints. In fiscal year (FY) 2014, L&I collected and returned just over \$2.1 million in unpaid wages to about 4,000 workers. This was made possible by internal process improvements, including, among other things:

- Use of Lean principles that have streamlined investigation practices.
- Improved technology that has influenced collection efforts by allowing the swift tracking of complaints and smooth transitions of cases through the system.

These measures have helped L&I retrieve wages owed and return them to workers. At the same time, the department continues to make enforcement of child-labor laws a top priority.

2014 Information Update

This section describes how L&I implemented state laws on wages and working conditions during 2014 to protect the safety, health and security of Washington’s workers. It provides information about wage, child labor and leave investigations conducted in 2014 and their results.

WAGE VIOLATIONS

The Wage Payment Act was enacted in 2006 and amended in 2010. It requires employers to comply with laws about wage payments to workers. Employer noncompliance with these laws most commonly involves failing to pay overtime or failing to pay at least minimum wage for hours worked. L&I investigates every wage complaint to determine whether the law has been violated. If a violation has occurred, L&I makes every reasonable effort to collect and distribute delinquent wages owed.

Under the Wage Payment Act, when a worker files a complaint, L&I has 60 days to issue a decision about whether the law has been violated. This time period may be extended for good cause. Both workers and employers have the right to appeal L&I’s decision to the Office of Administrative Hearings. A worker has the right to opt out of the administrative process and initiate private action; however, if the worker chooses to proceed with the administrative process through L&I, he or she cannot pursue private action.

Figure 1 shows wage complaints investigated, complaints resolved and wages returned to workers during fiscal years 2013 and 2014.

Figure 1: Wage violations

Wage complaints, investigations and collections				
	FY 2011	FY 2012	FY 2013*	FY 2014
Number of worker rights complaints investigated	3,920	4,012	3,772	3,907
Number of worker rights complaints closed	3,939	4,009	3,740	4,045
Collected wages owed to workers	\$2.3 million	\$2 million	\$3.27 million	\$2.1 million

Source: L&I Employment Standards Program

*Note: Due to the introduction of its new Complaint Activity Tracking System, L&I conducted a massive data conversion in 2013. The new system reflects wage collections from previous fiscal years that were not previously shown in the system. This causes the FY 2013 collections to appear higher than those for other fiscal years.

L&I collected about \$2.1 million in unpaid wages in FY 2014, returning the money directly to Washington's workers. The department implemented three major improvements that will assist in future collection of unpaid wages:

- **Online filing:** L&I launched a new system that allows employees to file worker-rights complaints online for the first time. The new system is faster and more streamlined than using the paper process, which requires re-keying data from hard-copy complaints. Paper complaints are still accepted.
- **Lean efficiencies:** The Employment Standards Program created new, standardized procedures for processing and investigating complaints. Now, there is a standard work process that clearly outlines investigative procedures. These guidelines are used to handle incoming cases and to conduct investigations.
- **Limited English proficiency:** The electronic system and program forms and letters are now available in both Spanish and English. Field and central office staff now has guidelines for communicating with customers of limited English proficiency who want to file a Worker Rights Complaint form.

CHILD LABOR

Enforcing child-labor laws is one of L&I's most important responsibilities. Based on a minor's age, Washington state laws restrict both the *hours* they can work and the *type* of work they can do. Some jobs are prohibited for minor-aged workers, such as forklift driving, working on roofs, or working in freezers or meat coolers.

L&I also enforces laws requiring employers who employ workers under age 18 to have a minor work permit endorsement on their master business license. During the school year, teens' working hours are restricted; however, L&I can grant special variances for 16- and 17-year-olds with the written permission of both a legal guardian and an authorized school administrator.

Figure 2 shows the number of work permits issued, minor injury investigations conducted and special variances granted during FY 2014.

Figure 2: Child-labor information

Investigations, work permits and variances				
	FY 2011	FY 2012	FY 2013	FY 2014
Minor injuries investigated and completed	409	485	369	512
Minor work permits issued	25,564	25,069	24,936	24,522
Minor work variances issued ¹	118	102	116	117

Source: Department of Labor & Industries

PROTECTED LEAVE

A protected-leave violation may occur when an employer does not allow an employee to take leave as required under the laws of the Washington Family Leave Act or the Washington Family Care Act. The Employment Standards Program enforces and educates the public about protected-leave laws.

Protected-leave laws also ensure that victims of domestic violence, victims of sexual assault or stalking, military spouses and volunteer firefighters are provided appropriate leave rights. Washington workers in these circumstances may file a complaint with L&I if they feel their rights have been violated.

In FY 2014, L&I's staff conducted 46 investigations and made 52 determinations, meaning the investigation was completed and the department determined one or more violations occurred. The Employment Standards staff continually takes the initiative to educate the public through consultations and informational presentations.

Figure 3 shows the numbers of investigations of leave complaints and education and outreach activities L&I conducted in FY 2014.

¹ Minor work variances are exceptions L&I can grant to the hours-of-work requirements for teen workers.

Figure 3: Protected-leave activity

Investigations, education and outreach				
	FY 2011	FY 2012	FY 2013	FY 2014
Investigations conducted	53	54	35	46
Investigations completed	44	54	28	52
Educational/outreach events	17	17	10	18
Participants attending educational/outreach events	716	559	646	528

Source: Department of Labor & Industries

Technological improvements

In FY 2014, L&I made three major technological improvements to its wage, child-labor and protected-leave investigation processes.

- **Complaint Activity Tracking System:** Since replacing an outdated electronic system in 2013, L&I can now efficiently store and organize all information and case activity in one place, where it can be instantly accessed by staff throughout the state. The system is designed to work in conjunction with the agency’s collections data system. L&I developed the system in-house using existing resources.
- **Linking the Complaint Activity Tracking System to collections data:** Connecting the case handling and collections data systems has eliminated delays and redundancies.
- **Online wage-complaint filing:** The application enabling online filing of wage complaints went live in 2013. Within a month, online complaints jumped to 50 percent of all complaints filed with L&I. This level remained consistent as of September 2014. Since online filing was implemented, L&I has received more than 2,500 complaints online. Washington’s workers can file a wage complaint at any time without having to travel to mail, fax or call an L&I office. This has resulted in a 22 percent increase in wage complaints to the department.

CHALLENGES DURING 2014

Case backlog

Increased volume: L&I has experienced a 22 percent increase in wage complaints, and expects to continue to see a significant increase in wage complaints for a number of reasons.

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- The growing economy has increased hiring, which in turn has increased wage complaints. About 40 percent of wage complaints are from employees who have not received their final paycheck from their previous employers. Employees have up to three years to file a wage complaint, and they typically wait to file one until they have found a new job elsewhere. Increased movement in the labor force means more workers are starting new jobs and then filing complaints, which adds to the case backlog.
- A recent court decision dealing with meal and rest-break cases is under review. Depending on the outcome, this may significantly affect L&I's workload and resources. Company-wide investigations are also resource-intensive because they're not covered by the Wage Payment Act; therefore, they are coordinated with the Assistant Attorney General's office to be heard in Superior Court.

The extra volume justifies three additional investigators at this time. L&I is hiring three temporary staff and will determine permanent staffing needs over time.

Conclusion

L&I has a successful history of collecting and returning wages to Washington's workers.

Online complaint-filing technology is allowing more workers to file wage complaints faster and easier.

Allegations of child-labor violations are the highest priority and are given swift attention and investigation.

The new Protected-Leave Program is working not only to investigate allegations of leave violations, but also to educate the public about these laws.

Challenges remain, including a caseload backlog resulting from increased wage complaints and pending policy issues that affect program resources.

FUTURE ACTIONS

Future actions include:

- Applying Lean processes for continuous improvements.
- Continued investigative training for agents.
- Continued public outreach and education, both in person and online.
- Close monitoring of potential effects of policy decisions affecting L&I's resources.