

HB 1076 would lead to frivolous lawsuits, harm workers and destroy jobs

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Key Findings

1. **House Bill 1076 would not add any additional protections for employees and is costly and unnecessary legislation.**
2. **Employer liability insurance rates would increase as a result of the increased potential for lawsuits, even if they are frivolous.**
3. **Employers would see an increase in expensive nuisance lawsuits filed against them by disgruntled employees.**
4. **Employers would be less likely to hire independent contractors due to the risk of harassment litigation, thus hurting job opportunities for workers.**
5. **The independent contractor market would shrink if House Bill 1076 become law.**

Introduction

HB 1076 would allow third parties, or “relators,” to bring lawsuits or so-called “qui tam actions” against employers on behalf on a government agency for a perceived violation of statutes that govern the employee workplace and the employer and employee relationship.¹

Unlike current law, it would allow individuals to bring public enforcement actions on behalf of the state.

It would also allow an independent contractor to bring a qui tam lawsuit against an employer for supposed misclassification of independent status when the independent

contractor believes he should be classified as an employee.

HB 1076 would lead to frivolous lawsuits and destroy jobs

HB 1076 is legislation looking for a problem that doesn’t exist. State law already provides for an employee to bring a lawsuit against an employer for violations of workplace safety and other work-related legal problems.

HB 1076 would lead to an increase in frivolous lawsuits against employers, by disgruntled employees. It would remove, or significantly reduce, the cost penalty for filing a lawsuit against a company by allowing the plaintiff to sue on behalf of a public agency. Many companies would respond to the threat by agreeing to settle a suit, even if the lawsuit does not have merit and the company is not at fault.

Under the bill, many business owners would rather pay a settlement than incur the fiscal and time costs involved in going to court. The lawsuit could be filed by a private person even if a state agency had already decided not to pursue action against an employer due to lack of evidence of any legal violation or any evidence of wrongdoing.

The relator, a private individual, would be able to get money for attorney and lawsuit costs, and would also be able to receive money as civil penalties, which would be split between the agency and the relator on settlement. This creates a strong financial incentive for lawsuits against employers, since the plaintiff would be able to receive a large money award should the case be settled.

A disgruntled employee, including those dismissed for good reasons, would be able to file a qui tam nuisance suit against his previous employer in a retaliatory manner. Of

¹ “SSHB 1076, to allow private individuals to sue companies on behalf of state agencies,” Washington State Legislature, introduced February 22, 2020, at <https://app.leg.wa.gov/billsummary?billnumber=1076&year=2021>.

course, there needs to be a provision in law to deal with unfair dismissals, but that provision already exists in state statute.

HB 1076 is not necessary and existing law is more than sufficient to protect employee rights.

Microsoft perma-temp lawsuit

The provision in HB 1076 for independent contractors to sue employers for supposed misclassification of employment status is similar to the class-action lawsuit that was won in 2000 against Microsoft Corporation for \$97 million by a group of independent contractors who claimed Microsoft had denied them job benefits.²

As a result, companies in Washington now put strict limits on the time a contractor can work for a company, including the length of the contract and the number of hours worked. Microsoft requires breaks in service for contractors and other companies have similar restrictions. During a mandated break in service, workers do not get paid.

The result of the 2000 lawsuit has harmed workers, by limiting their work hours and work opportunities, and by reducing the earnings of the very people the court thought it would help.

HB 1076 would have the same harmful effect on independent contractor workers, regardless of their experience or length of service, by requiring much tighter contract agreements restricting the specific roles and responsibilities of each party in the relationship.

Employers would be more reluctant to hire independent contractors because the cost to hire temporary labor would increase and make contractors less financially attractive than hiring a traditional full-time employee. For many small business owners, hiring a full-time employee for part-time work is not cost-effective, therefore no job, part-time or

full-time, would be created. This would result in slower growth in the economy or higher costs for products and services.

The independent contractor market would shrink as a result of HB 1076, resulting in less work and lower earnings for those who need it most.

Conclusion

House Bill 1076 is an unnecessary and over-burdensome regulation bill that would be harmful to workers. It would add no additional protections to employees and would only make it easier for disgruntled employees to file frivolous lawsuits against employers.

In sum, passage of HB 1076 would increase employer costs, reduce wages and destroy jobs.

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² “Temp Workers At Microsoft Win Lawsuit,” by Steven Greenhouse, *The New York Times*, December 13, 2000, at <https://www.nytimes.com/2000/12/13/business/technology-temp-workers-at-microsoft-win-lawsuit.html>.