

## Three Small Business Reforms Can Revive Business Climate

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The 2005 Legislative Session will be one of change for Washington state residents and business owners. A new governor and newly elected legislature will bring fresh ideas for reform and renewed risks for the business climate. Despite these changes, the interests of small business owners remain consistent.

Three issues in particular stand out as the priority topics that state policymakers must address if we want to our economy to begin growing again. They are: 1) Addressing the rising cost of health insurance, 2) reducing the cost of liability insurance through tort reform and 3) controlling workers' compensation rates with reform of the industrial insurance system.

Each of these issues was covered in a recent series of Small Business Forums as part of Washington Policy Center's Small Business Project, which is co-sponsored by over 60 different organizations including every major chamber of commerce in the state. The six forums were held in Vancouver, Wenatchee, Tri-Cities, Seattle, Spokane and Tacoma between late August and late October and together were attended by over 400 business owners, policymakers and media.

### Workers' Compensation Reform

Washington's workers' compensation program is administered by the Department of Labor and Industries. The program is funded by over 160,000 employers, covers roughly 1.9 million workers, and collected about \$1.2 billion in premiums in 2003. Increasing insurance costs can lead to job losses, layoffs and wage cuts, and have a harmful effect on the economic vitality and business climate of a region.

In 2003 the Department of Labor and Industries adopted a 29.4% rate increase, followed by a 9.8% increase in 2004. Inflation for these years is around 2%. Since each year's rate increase compounds previous ones, the average employer's costs in 2004 are 42% higher than in 2002.

With soaring costs, growing time-loss expenses and lack of choice, Washington's workers' compensation system is badly in need of reform. Reforms favored by small business include:

- Make sure workers' compensation trust funds are used only for workers' compensation administration and benefits.
- Require annual financial audits of workers compensation accounts. Currently the system is not subject to regular financial audits.
- Allow small groups of similar employers to self-insure.
- Legalize private insurance carriers. Washington is one of only five states that make it illegal to buy private workers' compensation insurance.
- Clarify the calculation of benefits to avoid further court imposed cost increases.

Only through major reform can state policymakers bring the workers' compensation system back to its original purpose; a true insurance plan, which mitigates risk for employers, provides fair and reliable benefits for injured workers and contributes to a stable business environment for all Washington citizens.

Two groups are currently circulating competing initiatives to reform the workers' compensation system. The Building Industry

Association of Washington sponsors Initiative 333 and the Washington State Labor Council is running Initiative 334.

## **Tort Reform**

Finding solutions to the rising liability costs of Washington's small businesses is vital to restoring the health of the state's health care system and business climate. Policy reforms are needed to restore a business climate that encourages reasonable risk taking while maintaining necessary protections for workers, consumers and patients. Some of the primary recommendations of business owners include:

- Implement joint and several liability reforms so the responsible party pays for their share of the damages. Current law can require parties only five percent responsible for a claim to pay 100 percent of the cost.
- In auto accident cases, allow evidence about a plaintiff's use of a seatbelt. Under current law, a defendant being sued by an injured motorist, despite state law requiring seatbelt usage, cannot point out that the motorist would have avoided injury by wearing a seat belt.
- Place a cap on non-economic damages for liability lawsuits. Implementing a reasonable limit on non-economic damages – while allowing full recovery of any verifiable economic damages like health care costs, lost wages, etc. – offers a proven option for reducing the cost of liability insurance.

Two groups are also gathering signatures for initiatives to reform our liability system. The Washington State Medical Association is sponsoring Initiative 330 and the state's trial lawyers have introduced the competing Initiative 336.

## **Rising Cost of Health Insurance**

Paying for health care coverage is one of the fastest-rising costs facing businesses and families in Washington and is judged by small businesses as the number one barrier to their success. At the same time, health insurance is one of the most heavily regulated sectors of our state's economy.

Health insurers in Washington are required by law to cover a broad range of illnesses and treatments, meaning employers are often paying for coverage their workers do not need. The large number of state-imposed mandates means basic, low-cost health coverage is currently illegal in Washington.

Business owners deal with competition every day. They understand that reducing barriers to entry will increase competition in the marketplace. For this reason, small business owners support reforms that would streamline state regulations, increase competition among insurers, improve small business access to basic health insurance and encourage the option of individual Health Savings Accounts (HSAs) that give workers control over their own health benefits. Reform proposals include:

- Allow small businesses to purchase a low-cost health insurance plan. Current law imposes 47 different types of mandates on all health insurance plans issued in Washington state. By reducing the coverage requirements for the lowest cost plan, small business owners could purchase a bare-bones plan at a low cost and with few mandates, rather than offering no health insurance at all.
- Encourage improved access to individual Health Savings Accounts for small businesses. Pre-tax funds deposited in an HSA earn interest and can be accumulated from year to year. HSA funds can be used tax free to pay any qualified medical expenses. An accompanying catastrophic insurance policy covers costs for major illness or injury.

With basic reforms, state policymakers can restore confidence in the Washington business climate. By attracting new businesses and encouraging existing businesses to add jobs, we can begin recovering from an extended economic recession and get our state moving again.

*For more information about these issues, and additional in-depth analysis from WPC's Small Business Project, visit [www.smallbusinessproject.org](http://www.smallbusinessproject.org). Washington Policy Center is a non-profit, 501(c)(3) research and education organization in Seattle, Washington. Visit us on the web at [www.washingtonpolicy.org](http://www.washingtonpolicy.org). Nothing appearing in this document is to be construed as an attempt to aid or hinder the passage of any bill before any legislative body*