
SUBSTITUTE SENATE BILL 5719

State of Washington

65th Legislature

2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators Baumgartner and Rolfes)

1 AN ACT Relating to creating a labor and industries ombuds within
2 the department of commerce; adding new sections to chapter 43.330
3 RCW; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.330
6 RCW to read as follows:

7 (1) The ombuds for employers is created in the department of
8 commerce. The ombuds is appointed by the governor and reports
9 directly to the director of the department of commerce. The office of
10 the ombuds may be openly and competitively contracted by the governor
11 in accordance with chapter 39.26 RCW but shall not be physically
12 housed within the department of labor and industries.

13 (2) The person appointed ombuds shall hold office for a term of
14 six years and shall continue to hold office until reappointed or
15 until his or her successor is appointed. The governor may remove the
16 ombuds only for neglect of duty, misconduct, or inability to perform
17 duties. Any vacancy shall be filled by similar appointment for the
18 remainder of the unexpired term.

19 (3) Any ombuds appointed under this section shall have training
20 or experience, or both, in the following areas:

1 (a) Programs administered by the department of labor and
2 industries, including industrial insurance, occupational safety and
3 health, and employment standards;

4 (b) The Washington state legal system; and

5 (c) Dispute or problem resolution techniques, including
6 investigation, mediation, and negotiation.

7 (4) The ombuds shall integrate information explaining the ombuds
8 program and contact information into existing brochures and materials
9 provided by the department of labor and industries to employers.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330
11 RCW to read as follows:

12 The ombuds has the following powers and duties:

13 (1) To act as an advocate for employers in interactions with the
14 department of labor and industries;

15 (2) To offer and provide information on department of labor and
16 industries programs as appropriate to employers;

17 (3) To identify, investigate, and facilitate resolution of
18 employer complaints relating to department of labor and industries
19 programs; and

20 (4) To maintain a statewide toll-free telephone number for the
21 receipt of complaints and inquiries.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330
23 RCW to read as follows:

24 (1) The ombuds is not liable for good faith performance of
25 responsibilities under this chapter.

26 (2) No discriminatory or retaliatory action may be taken against
27 any employer for any communication made, or information given or
28 disclosed, to assist the ombuds in carrying out its duties and
29 responsibilities.

30 (3) All communications by the ombuds, if reasonably related to
31 the requirements of his or her responsibilities under this chapter
32 and done in good faith, are privileged and confidential.

33 (4) The ombuds is exempt from being required to testify as to any
34 privileged or confidential matters except as the court may deem
35 necessary to enforce this chapter.

36 (5) All records and files of the ombuds relating to any complaint
37 or investigation made pursuant to carrying out its duties and the
38 identities of complainants, witnesses, or workers shall remain

1 confidential unless disclosure is authorized by the employer or the
2 employer's legal representative. No disclosures may be made outside
3 the office of the ombuds without the consent of the employer.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.330
5 RCW to read as follows:

6 (1) The ombuds shall provide the governor with an annual report
7 that includes the following:

8 (a) A description of the issues addressed during the past year
9 and a very brief description of case scenarios in a form that does
10 not compromise confidentiality;

11 (b) An accounting of the monitoring activities by the ombuds; and

12 (c) An identification of opportunities to streamline employer
13 interactions with programs administered by the department of labor
14 and industries, and recommendations for policy or process
15 improvements.

16 (2) The first annual report is due on or before October 1, 2017.
17 Subsequent reports are due on or before October 1st.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.330
19 RCW to read as follows:

20 This section is the state spending performance statement for the
21 new program created in this act. This performance statement is only
22 intended to be used for subsequent evaluation of this new program. It
23 is not intended to create a private right of action by any party or
24 be used to determine eligibility for the services provided by the
25 program.

26 (1) It is the legislature's specific public policy objective to
27 provide employers with an independent resource to help them
28 understand and navigate interactions with the department of labor and
29 industries. By creating the ombuds for employers at the department of
30 commerce, the legislature intends to achieve the following outcomes:

31 (a) Improve the customer service aspects for employers doing
32 business with the department of labor and industries;

33 (b) Reduce the average time to resolve employer disputes with the
34 department of labor and industries;

35 (c) Improve the knowledge employers have of industrial insurance,
36 workplace safety, and workplace standards laws and regulations; and

37 (d) Improve the identification of common areas of
38 miscommunication or bottlenecks in processes administered by the

1 department of labor and industries and provide recommendations for
2 change.

3 (2) If a review by the joint legislative audit and review
4 committee finds that the multiple outcomes identified in subsection
5 (1) of this section have been achieved, then the legislature intends
6 to extend the expiration of the ombuds for employers.

7 (3) In order for the joint legislative audit and review committee
8 to obtain the data necessary to review the performance of the ombuds
9 for employers created in this act, the joint legislative audit and
10 review committee may require the ombuds and the department of labor
11 and industries to collect and quantify information and data regarding
12 employer complaints filed with the ombuds. The joint legislative
13 audit and review committee may also survey employers, employer
14 associations, and users of the ombuds services to assess the
15 performance of the ombuds.

16 (4) No later than January 1, 2027, the joint legislative audit
17 and review committee must review the program created by the act,
18 determine its effectiveness, and provide a recommendation to the
19 fiscal committees of the legislature as to whether the program should
20 be continued without modification, modified, scheduled for sunset
21 review at a future date, or terminated immediately. If the committee
22 determines that the program does not achieve any of the outcomes
23 specified in subsection (1) of this section, the committee shall
24 recommend termination of the program. The committee may recommend
25 accountability standards for the future review of the spending
26 program.

27 NEW SECTION. **Sec. 6.** This act expires July 1, 2027.

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