

# Welcome to Washington

A guidebook for city managers

## Employment Law and Labor Relations

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# We'll Discuss

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- Collective Bargaining/Washington Labor Law
- Labor and Industries
- Workers Compensation Insurance
- Employment Security/Unemployment Insurance
- Risk Management

# Washington Labor Law – Statutory Authority

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## 1. Public Employees Collective Bargaining Act

- The Washington state law governing collective bargaining for city and county employees is the Public Employees Collective Bargaining Act, RCW 41.56.

## 2. Public Employee Relations Commission

- The Public Employment Relations Commission (PERC), is the administrative agency responsible for implementing the rules and regulations surrounding the collective bargaining process.



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# Collective Bargaining

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There are three categories of bargaining subjects:

1. Mandatory – wages, hours, and working conditions.
2. Permissive – allowed only if both parties agree to bargain.  
(Be careful—once included, you must bargain to make any future changes!)
3. Illegal – not permitted to bargain.



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# Collective Bargaining Rights

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*Employee rights under the laws of the State of Washington include:*

- Two or more employees have the right to join together for the purpose of collective bargaining
- Employees have the right to associate with an established union or association for the purpose of representation and bargaining
- 2018 Supreme Court Decision – *Janus v. AFSCME*
- Binding interest Arbitration



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# Prohibitions – Unfair Labor Practices (ULPs)

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- “Direct dealing”: When the employer deals directly with individual employees in a bargaining unit instead of designated union representatives
- Employer involvement in union business
- Unilateral changes in wages, hours or working conditions
- “Anti-union animus”: Firing or discriminating against employees for participating in union activities
- Refusing to bargain or bargaining in bad faith (applies to employer and union)

# Public Employment Relations Commission (PERC)

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PERC is a state agency responsible for resolving disputes involving public employers and employees, and the unions that represent those employees.

## Mission:

Prevent or minimize the disruption to public services through the impartial, timely, and expert resolution of labor-management disputes.

# Public Employment Relations Commission (PERC) (cont'd)

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- Responsible for resolving disputes between employers and unions:
  - Collective bargaining mediation
  - Collective bargaining binding arbitration (only available to certain employee groups)
  - Grievance mediation and arbitration (for disputes about contract interpretation)
  - Unfair labor practice hearings
- PERC will assign a mediator, arbitrator, or hearing examiner.
- The contract will usually spell out the process for dispute resolution.

# Labor and Industries

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L&I is a state agency dedicated to the safety, health, and security of Washington's 3.3 million workers.

L&I requires employers to:

- Maintain clear and comprehensive policies and programs that help ensure the safety of workers;
- Consistently enforce those policies and programs;
- Investigate internal or external complaints regarding alleged violations of policies or programs.



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# L&I Programs and Divisions

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- **Enforcement/Compliance:**

- Conducts about 5,000 workplace visits each year (may be unannounced).
- Investigates complaints and workplace accidents or injuries.
- Has authority to issue citations to employers, which increase significantly for more serious hazards or repeat offenses.

## Consultation:

- Conducts free on-site consultation visits at employers' request.
- Will not issue citations but may order employers to correct deficiencies within an identified timeframe.

# Workers Compensation Insurance (Workers Comp)

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- Washington State is one of the four remaining monopolistic states where the state government is the insurer rather than private insurance companies.
- Employers with one or more employees must have workers' compensation insurance.

# Obtaining coverage

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Employers have two options:

1. Participate in the state insurance program.
2. Meet standards set by Washington State to be a self-insured employer.

About 400 of the largest employers in Washington, including 20 cities, are self-insured.

# Why Should You Care?

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- **The employer pays** (either through premiums or self-insurance) the cost of time off and/or medical treatment for injured employees.
- Partial or full disability – paid by the insurer (and ultimately the employer).
- Vocational re-training – paid by the insurer (and ultimately the employer).
- From studies/experience: Employees who return to work (even on light duty) tend to recover faster and more fully than employees who stay home.
- Stay at Work Program: L&I partially reimburses employers who provide temporary light or modified duty to injured employees.



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# Employment Security Department

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The Employment Security Department is a state agency that provides temporary income to employees who lose their jobs.

- Benefits are available to employees terminated for almost any reason, and may be available even if the employee is terminated for cause.
- Benefits are available to seasonal and temporary employees.
- Benefits continued for a defined period of time as long as terminated employees continue to look for work.
- The costs of unemployment insurance are assessed against employers.

# General Risk Management

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## Liability and Property Insurance

1. Risk-Sharing Pools, for example:
  - AWC Risk Management Service Agency (RMSA)
  - Washington Cities Insurance Authority (WCIA)
2. Self insurance (broker with self-insured retention); the city handles claim management.
3. Fully insured plan (with deductibles); insurer handles claim management.

## Personal Excess Liability Insurance

- \$1-\$2 million
- Rider on your Homeowners Policy—not expensive



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# Conclusion

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- The vast majority of your expenses are related to your employees. You need to pay close attention to how these areas are administered.
- Think about long term consequences of labor agreement and any changes you are considering.
- Establish good processes for labor union grievances, employee safety procedures, workplace injuries, and unemployment claims. **Follow your processes consistently.**
- There are good Third Party Administrators out there who can help.
- Ask MRSC/AWC/WCIA/Fellow Managers.

# Questions?

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