



*An overview of Employment Law Legislation
for the 2022 Legislative Session.*

Presentation to Olympia SHRM

Presented by Bob Battles, AWB General Counsel and Government Affairs Director | March 29, 2022

Association Overview

- *State Chamber of Commerce*
- *State Manufacturing & Technology Assn*
- *All Types of Business*

as of Sept. 30, 2021

AWB Mission & Vision

- **Mission**: AWB is the catalytic leader and unifying voice for economic prosperity throughout Washington state.
- **Vision**: Washington will excel as a globally competitive state built on a solid foundation of innovation, a world class workforce, and a quality of place second to none.

Strategies for Achieving Mission & Vision

- Achieve:** Provide a high-caliber education and workforce development system aligned with the demands of the 21st century.
- Connect:** Create an efficient, multi-modal transportation and infrastructure system that links Washington's employers and communities to each other and to the world.
- Employ:** Encourage and support innovation, entrepreneurship, job retention and creation.
- Compete:** Foster a business environment conducive to creating a resilient and growing, statewide economy.
- Place:** Cultivate actions that enable vibrant communities and environments.

Members by Size

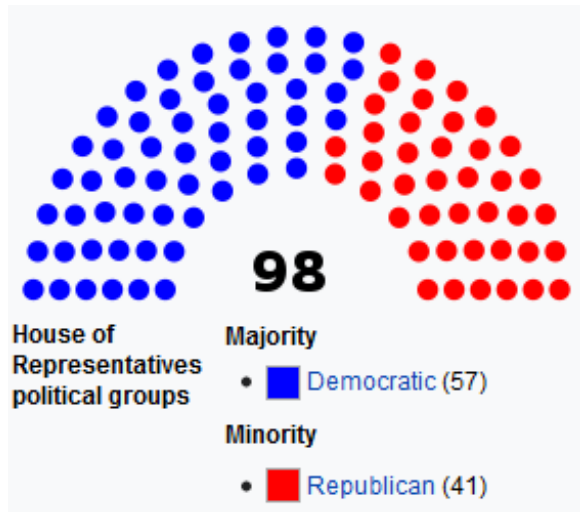
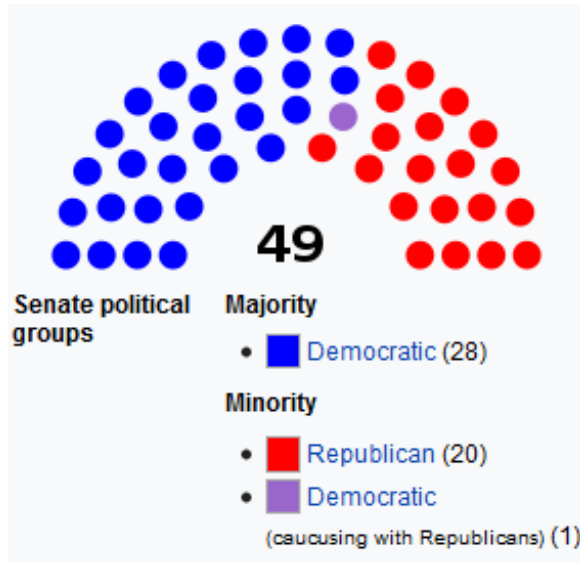


as of Sept. 30, 2021

Employer Sectors

Industry Sector	%
Services & Professional Groups	27%
Construction	16%
Manufacturers	14%
Retail	10%
Banks, Insurance & Real Estate	10%
Wholesale	9%
Agriculture, Forestry & Mining	7%
Transportation, Utilities & Communications	4%
Chambers & Trade Associations	3%

as of Sept. 30, 2021



Session Dynamics

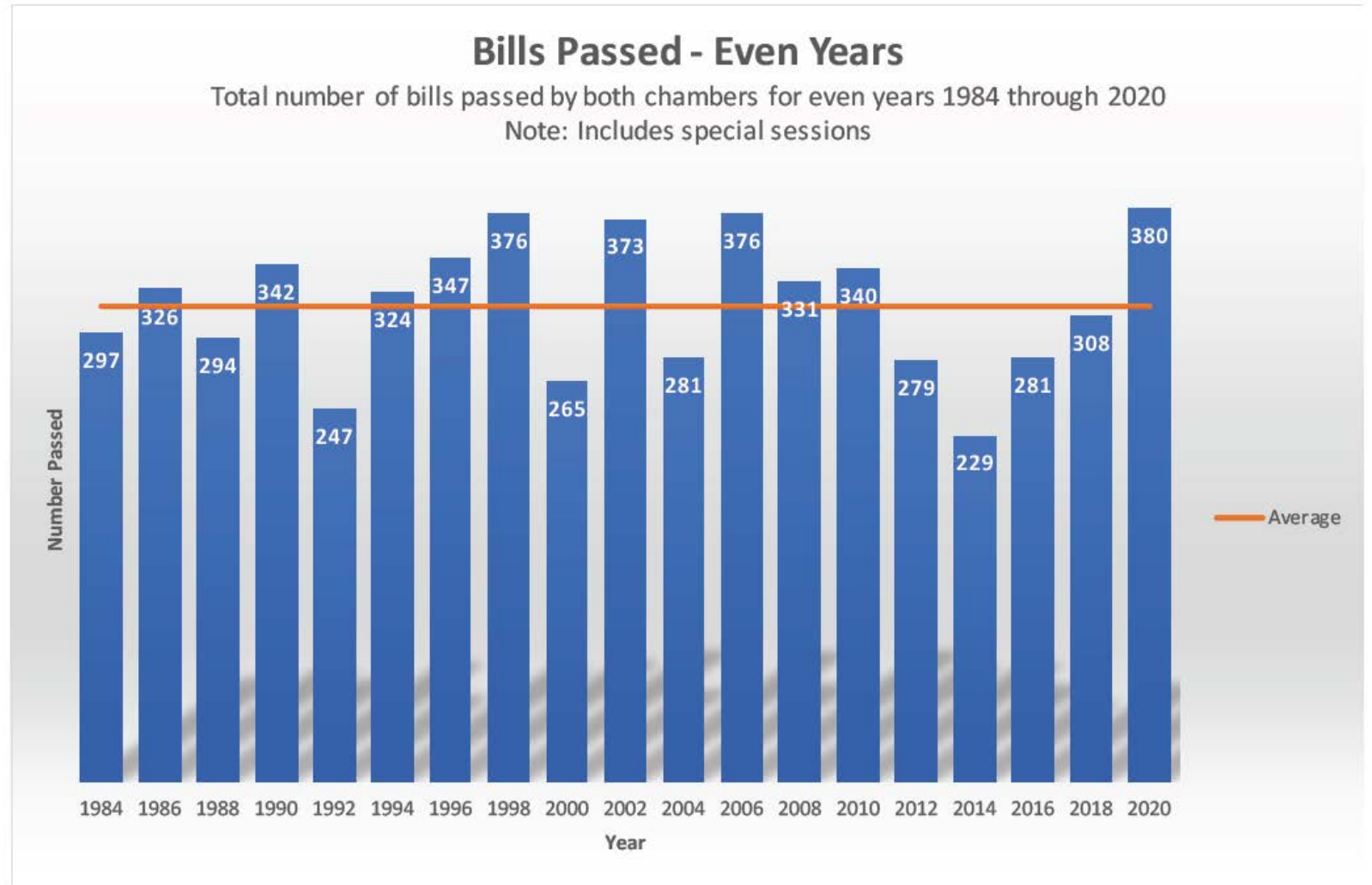
- 60-Day Session
- Remote-Remote-Remote
- **Democrat Control - Big Majorities**
 Moves Policy Away From the Middle
 House: 58 D – 41 R
 Senate: 28 D – 20+1
- 14B Operating Budget Surplus

2022 Legislative Session



309
Laws

762 bills introduced
309 bills passed
0 vetoed at present



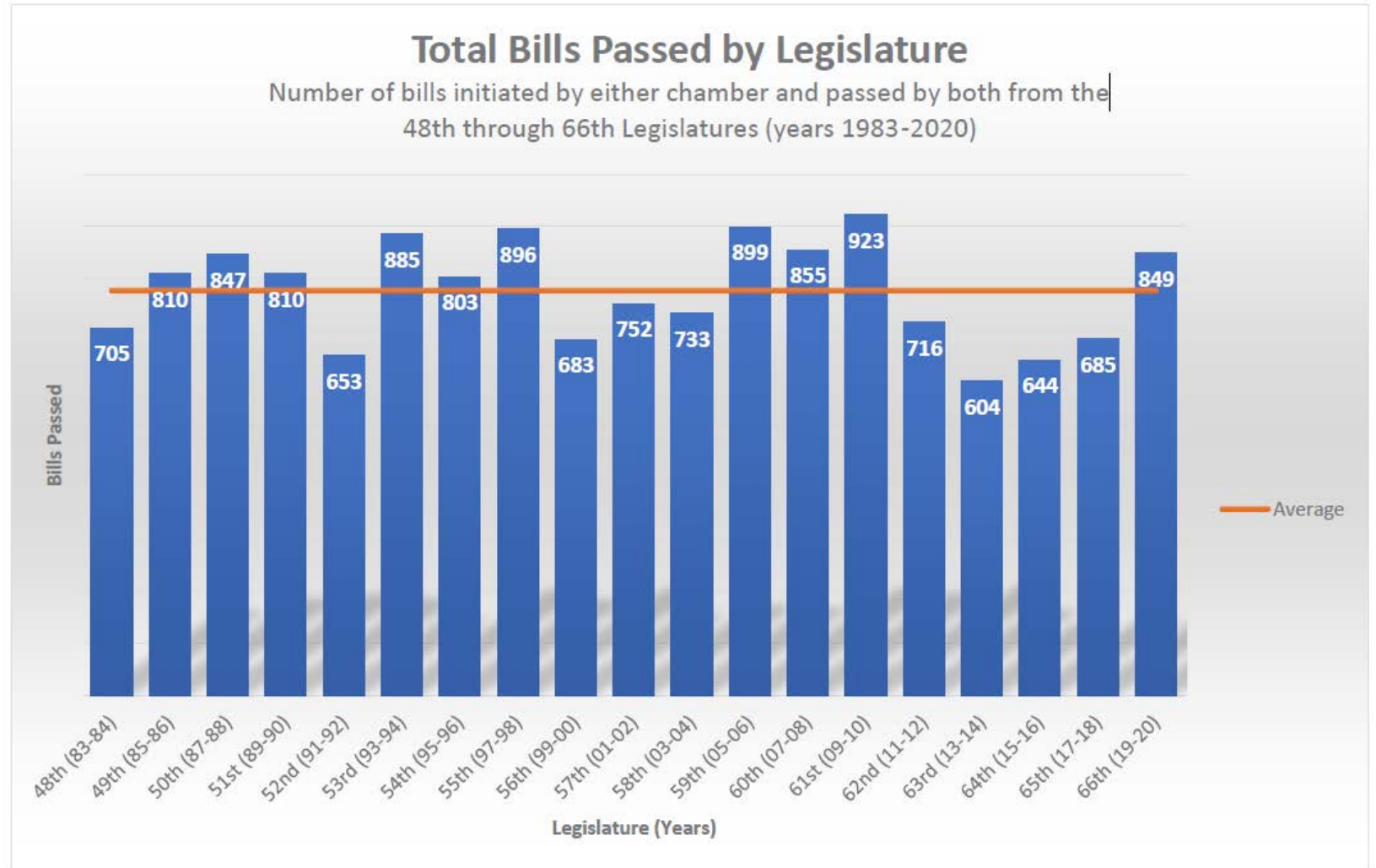
Source: Office of Program Research

2021-22 Legislative Session



649
Laws

1465 bills introduced
649 bills passed
17 partial vetoes
1 vetoed



Source: Office of Program Research



Dave Mastin

Vice President, Government Affairs

[360.870.2919](tel:360.870.2919)
DaveM@awb.org



Amy K. Anderson

Government Affairs Director
Health Care, Education, Workforce &
Federal Issues

[360.870.2916](tel:360.870.2916)
AmyA@awb.org



Bob Battles

General Counsel and Government
Affairs Director
Legal Affairs, Employment Law, Wage &
Hour, Workers' Compensation, UI,
Workplace Safety

[360.870.2914](tel:360.870.2914)
BobB@awb.org



Mike Ennis

Government Affairs Director
Transportation, Land Use, Telecom and
Rural Vitality

[360.870.2917](tel:360.870.2917)
MikeE@awb.org



Peter Godlewski

Government Affairs Director
Energy, Environment and Water Policy

[360.870.2918](tel:360.870.2918)
PeterG@awb.org



Tommy Gantz

Government Affairs Director
Tax & Fiscal Policy, and Manufacturing

[360.870.2915](tel:360.870.2915)
TommyJG@awb.org

[360.943.1600](tel:360.943.1600)
LivJ@awb.org

[360.943.1600](tel:360.943.1600)
PhilC@awb.org

Review of the 2022 Legislative Sessions



2022(And 2021) Legislative Session
Employment and Labor Law Legislation

Review of the 2022 Legislative Sessions

Unemployment Insurance (UI) & Paid Family & Medical Leave (PFML)

[SB 5873/HB 2031](#) - Concerning unemployment insurance, family leave, and medical leave premiums.

For UI, the bill would do the following:

- Decreases the maximum social tax (social cost factor) for 2022 and 2023:
 - 2022 reduced to .5% (current law is .75%)
 - 2023 reduced to .7% (current law is .85%)
- Under current law, the social tax is graduated based on a multiplier for the employer's specific rate class varying from 40% of the social tax up to 120%.
 - Under the bill, for 2023 for small employers (10 or fewer employees), if their rate class is greater than 7, the rate class is 7 for purposes of the graduated rate multiplier only. The rate class multiplier for rate class 7 is 64%.
- Corrects statutory references in two unemployment statutes.

Review of the 2022 Legislative Sessions

[SB 5873/HB 2031](#) - Concerning unemployment insurance, family leave, and medical leave premiums.

For PFML, the bill would do the following:

- The 2022 total PFML premium rate (.6%) and employer's portion of the total premium (26.78%) remains as calculated by ESD (<https://paidleave.wa.gov/estimate-your-paid-leave-payments/>)
- The 2022 employee's portion of the total premium was calculated as 73.22% by ESD (see link above). Under the bill, subject to appropriations:
 - 31.00% is paid with the general funds.
 - 42.22% is deducted from the employee's wages.

Review of the 2022 Legislative Sessions

[SB 5649](#) - Modifying the Washington state paid family and medical leave act. The original bill would have provided up to 14 calendar days of paid family leave, within existing leave limits, to certain employees in specified situations. Specifies that leave taken by certain employees in the first six weeks after giving birth must be medical leave, unless the employee chooses to use family leave. Expires the collective bargaining exception contained in the Paid Family and Medical Leave program. Authorizes the Employment Security Department (ESD) to issue a predetermination of eligibility and benefits prior to the employee's start of leave. Requires ESD to publish a list of employers with approved voluntary plans on its website.

Review of the 2022 Legislative Sessions

[SB 5649](#) - Modifying the Washington state paid family and medical leave act. (Continued)

As a result of the recent announcement by ESD B 5649 was modified to address the long-term state of the fund.

- Provides that an allowable purpose for family leave is any leave taken by an employee during the seven calendar days following the death of the family member for whom the employee would have qualified to take medical leave for the birth of their child or would have qualified for family bonding leave.
- Specifies that leave taken by certain employees in the first six weeks after giving birth must be medical leave, unless the employee chooses to use family leave.
- Expires the collective bargaining exception contained in the Paid Family and Medical Leave (PFML) program.

Review of the 2022 Legislative Sessions

[SB 5649](#) - Modifying the Washington state paid family and medical leave act. (Continued)

- Establishes an actuarial office within the Employment Security Department (ESD), which must report annually on the financial condition of the PFML program and requires ESD to report on specified fiscal areas of the PFML program.
- Requires ESD to publish a list of employers with approved voluntary plans on its website. Requires the Office of Financial Management to coordinate with another agency for actuarial services relative to the PFML program and report to the Legislature by October 1, 2022.
- Creates a legislative task force on PFML program premiums.

Review of the 2021 Legislative Sessions

Long Term Care (Long Term Services and Supports Trust)

Original Law Passed in 2019:

In 2019, the Legislature established the Long-Term Services and Supports Trust Program (LTSS Trust Program), which provides up to \$36,500 in lifetime benefits for eligible beneficiaries to apply to the cost of their long-term care. The LTSS Trust Program is funded through a 0.58 percent premium assessment on an employee's wages. The premium assessment begins January 1, 2022, and eligible beneficiaries may begin receiving benefits on January 1, 2025.

Review of the 2021 Legislative Sessions

Long Term Care (Long Term Services and Supports Trust)

Who gets the benefits: An individual who is a Washington resident, at least 18 years old, not disabled before the age of 18, assessed as needing assistance with at least three activities of daily living, and paid into the program for either three of the last six years or a total for ten years with no more than a five- year interruption, is eligible to receive benefits

Review of the 2021 Legislative Sessions

Long Term Care (Long Term Services and Supports Trust)

Original Intent of the Law:

Allowed employees to opt-out as they acquired long term care service products. The program would support those who need services and who did not have long term care coverage for a short period of time until they became eligible for other long-established programs such as Medicaid.

Review of the 2021 Legislative Sessions

Long Term Care (Long Term Services and Supports Trust)

SHB 1323: makes changes to the program, to increase funding for the trust, that would collect significant payroll taxes from people who would be ineligible for the program, and advantage certain groups. The changes require employers and/or employees to purchase long term care coverage by November 1, 2021, if they wish to opt-out. Once this date passes to purchase a plan there is no other opportunity to opt out.

Review of the 2021 Legislative Sessions

Long Term Care (Long Term Services and Supports Trust)

Problems with the current law:

Some Washington state residents will pay into the program without the possibility of utilizing the benefit or paying more into the program than they will ever receive in benefits.

- Those retiring within 3 years
- People who live in border communities, such as Idaho and Oregon, who work in Washington state
- High wage earners

The state has yet to set up the system for people to opt out.

Review of the 2022 Legislative Sessions

Long Term Care:

1. [HB 1732](#) - Delaying the implementation of the long-term services and supports trust program by 18 months.
2. [HB 1733](#) - Establishing voluntary exemptions to the long-term services and supports trust program for certain populations

Employers should:

- Stop withholding WA Cares premiums from employee earnings.
- Reimburse employees for WA Cares premiums within 120 days of the date premiums were collected.
- Continue to maintain copies of exemption approval letters for workers who provided them.

Review of the 2021 Legislative Sessions

Child Care

- **E2SSB 5237**- Expands Eligibility and Decreases Co-Payments
- **SHB 1331**- Allows Waiver of Local Impact Fees for Early Learning Facilities
- **SSB 5151**- Eliminates State Fees for Childcare Licenses Until July 2023
- **SB 5023**- UI is not counted for eligibility and co-payment for Working Connections Child Care Program



Review of the 2022 Legislative Sessions

General Employment and Labor Legislation:

1. [HB 1076](#) -Workplace violations/qui tam. This bill would allow whistleblowers to bring actions on behalf of the state for violations of workplace protections. It would create a professional plaintiffs class resulting in frivolous lawsuit. This bill remains alive from the 2021 session. We do not expect it to move in the 2022 session.
2. [HB 1776](#) - Concerning wages for journeypersons in high-hazard facilities. This bill would require the use of prevailing wage to the private sector.
3. [SB 5600](#) - Concerning the sustainability and expansion of state registered apprenticeship programs.

Review of the 2022 Legislative Sessions

General Employment and Labor Legislation:

1. [SB 5520](#) - Disclosing harassment and discrimination. This bill prohibits an employer from requiring an employee, as a condition of employment, to sign a document preventing the disclosure of harassment and discrimination occurring in certain work environments.
2. [HB 1795](#) - Prohibiting nondisclosure and non-disparagement provisions from employers regarding illegal acts of discrimination, harassment, retaliation, wage and hour violations, and sexual assault.
3. [SB 5564](#) - Protecting the confidentiality of employees using employee assistance programs. This would prohibit employers from obtaining individually identifiable information regarding an employee's participation in an employee assistance program. The problem with this bill is that it ignores how the EAP is used in the workplace. It would prevent using it in any last chance agreements. In addition, it would not even allow employees to sign a waiver. After the Hearing, the prime sponsor provided proposed amendments that addressed AWB's concerns.

Review of the 2022 Legislative Sessions

General Employment and Labor Legislation:

1. [SB 5761](#) - Concerning employer requirements for providing wage and salary information to applicants for employment. This bill requires employers to disclose in job postings the hourly or salary compensation, or a range, and a general description of all of the benefits and other compensation, rather than providing wage and salary information only upon request of an applicant after the initial job offer. It also removes the requirement that if no wage scale or salary range exists, the employer must provide the minimum wage or salary expectation prior to posting the position, making a position transfer, or making the promotion.
2. [HB 1837](#) - Restoring the state's ability to address work-related musculoskeletal injuries. This is Ergonomic 2.0. The public rejected this system in 2003. This is an attempt to bring it back.

Review of the 2022 Legislative Sessions

General Employment and Labor Legislation:

1. [HB 1868/5751](#) - Improving worker safety and patient care in health care facilities by addressing staffing needs, overtime, meal and rest breaks, and enforcement. The bill requires L&I to regulate and enforce hospital staffing committees and minimum staffing standards. It establishes a minimum staffing standards for specific patient units. Amends the meal and rest breaks and overtime provisions for health care employee and provides administrative enforcement and a private cause of action for violations.
2. [SB 5517](#) - Concerning employment of individuals who lawfully consume cannabis. AWB continues to oppose any legislation that would restrict a zero-tolerance drug policy.

Review of the 2022 Legislative Sessions

General Employment and Labor Legislation:

1. [SB 5559](#) - Concerning verification for use of paid sick leave. The bill provides for paid sick leave absences exceeding three days, where an employer who does not offer a health insurance plan as an employee benefit and pays at least 85 percent of the cost of the insurance may only require an oral or written explanation and may not require a medical examination or statement from a health care provider.
2. [SB 5891](#) - Concerning warehouse distribution centers. This bill would expand the use of PRAs for safety and health matters. It would micromanage the use of employees in some warehouse setting resulting in a broad overreach by the state. It create retaliation presumptions undermining the at will laws.

Review of the 2022 Legislative Sessions

Tech/Privacy:

1. [2SSB 5062](#)- Data Privacy. Concerning the management, oversight, and use of data. This bill is AG enforced and provides for a right to cure. This bill remains alive in the 2022 session.
2. [HB 1850](#) Protecting and enforcing the foundational data privacy rights of Washingtonians. AWB has worked with the prime sponsor of the bill to try to find solution to concerns. The most concerning provision in this bill is the enforcement section. It would create three separate enforcement provisions. They are a commission/agency enforcement, Attorney General CPA enforcement and a private right of action. This would create a system of regulation through litigation.

Review of the 2022 Legislative Sessions

Tech/Privacy :

HB 1846 - Providing a tax preference for rural and nonrural data centers This bill provides tax incentives to develop data centers. AWB supports most of the bill. However, the bill require companies to enter into Project Labor Agreements to get the tax incentives.

Review of the 2021 Legislative Sessions

Agency Rule Making:

- a. Agency Rule Making (Wildfire Smoke, Ambient temperatures, etc...)

Questions?

bobb@awb.org /



PO Box 658 / Olympia, WA 98507-0658 / 1414 Cherry St. SE / Olympia, WA 98501
360.943.1600 / Awb.org