

INDEPENDENT BUSINESS ASSOCIATION

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SMALL BUSINESS REPORT SMALL BUSINESS REPORT SMALL IBA SMALL BUSINESS REPORT - March 17, 2023

2023 Legislature Reached Half-Way	Page 1
The Major Issues	Page 1
New WA Business Tax?	Page 1
What Is A Margin Tax?	Page 2
New Road Use Tax Coming?	Page 3
What WA Drivers Said	Page 3
More Small Business Legislation	Page 3
WA Economy & YOU	Page 4
Summary	Page 4
Economic Forecast Risks & Upsides	Page 4
Recession Prospects	Page 4
More Economic Signs	Page 4
Economy USA Debt Limit & YOU	Page 4
Revenue - Inslee's \$4 Billion Request & YOU	Page 5
Crime In WA & US	Page 6
Salaried Workers & Overtime Pay	Page 6
Salaried Workers & Overtime Pay In WA	Page 6
New Safety Inspection Authority?	Page 7
Union Rep On Safety Inspection?	Page 7
Flying On Hydrogen	Page 7

NOTICE: The information contained in this publication is intended to alert the reader to issues, laws, regulations and events which may affect the operations of a small business in Washington State. The information is presented in a summary form and is not intended to assure compliance with laws or regulations which may apply to any specific business. The information is not intended as legal, financial, or tax advice. The reader is advised to seek the advice of a qualified attorney, accountant or other qualified advisor to obtain specific compliance advice with respect to the laws, regulations, taxes or other issues which may apply to a specific business.

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IBA SMALL BUSINESS REPORT



February 17, 2023

2023 Legislature Reaches Half-Way

The 2023 Legislature started on January 9, 2023 and is scheduled to run through April 23, 2023. It is a “long” session, 105 days. A “long” session is a session when the Legislature adopts a two-year budget for Washington State spending.

There are already 1604 legislative bills filed for consideration and before the 2023 Legislature goes home.

The good news is that only a small portion of those bills become law.

During the 2-year 2021—2022 legislative sessions, 1224 bills were introduced for consideration and 344 of them passed the Legislature.

March 8, 2023 was that last day for the Legislature to consider legislation proposed from their own chamber. House bills proposed by the House and Senate Bills proposed by the Senate.

Now legislation that has passed either chamber will be considered by the other chamber.

March 29, 2023 is the last day for the Senate and the House to pass bills from the opposite chamber out of committee and move them to the floor for consideration except House fiscal committees and Senate Ways & Means and Transportation committees.

April 4, 2023 is the last day for the Senate and the House to consider legislation that requires funding or imposes new taxes.

April 12, 2023 is the last date for the full House and full Senate to pass legislation previously passed

by the opposite chamber.

After April 12, 2023 the House and the Senate must both pass legislation that was modified by the opposite chamber between March 29th and April 12th. agree on any changes, and both pass the same version of that legislation.

April 23, 2023 is the last day of the scheduled 2023 Legislative session. But, the legislature could go into overtime and is likely to do so with so many issues still unsettled.

The Major Issues

The major issues for the 2023 Legislature. as identified by Governor Inslee, are: Click on blue link for details: www.ibaw.net/linksmar23.pdf #1.

State budget proposed by Governor Inslee for 2023-2025

- o \$70 Billion state two-year budget for: 2023 – 2025.
- o 12% increase in state spending without needing a tax increase.
- o **Yet to be proposed. Starting soon**

Homelessness and Governor Inslee’s BIG new proposals:

- Bold \$4 Billion proposal to build 7500 new housing units for homeless WA citizens. See Page 5 this Report.
- o Will require a vote of the people to implement. .

Behavioral Health in Washington State

- Washington state has a serious behavioral health problem that is underfunded and must be addressed by the 2023 Legislature.
- 78 bills propose to do a variety of things
- Behavioral health is part of the Governor’s Homelessness proposal.

Abortion and the U.S. Supreme Court’s ruling that overturned Roe v Wade on a woman’s right to choose an abortion.

- Governor Inslee will seek a state constitutional amendment to restore

Roe V Wade in WA state. It will require voter approval before it can pass.

- Hearing held on SJR 8202, Also introduced as: HJR 4201
- Will require a vote of the people.
- **SJR 8202 is still alive**

Drug position & Blake decision that decriminalized drug possession.

- Governor Inslee wants the 2023 legislature to overturn the 2021 Washington State Supreme Court decision that drug possession is not a crime.
- Several legislative bills have been proposed to deal with this issue.
 - **SB 5536** Passed the Senate & is still alive!
 - HB 1492 is technically dead

Guns and Governor Inslee’s gun legislation priority

- Governor Inslee wants the legislature to ban the assault rifles and require handgun owner education
 - **HB 1240** passed the House & is still alive!
 - HB 1180, SB 5193& SB 6265—”gun education” before buying are technically dead.

Police reforms proposed by Governor Inslee

- Governor Inslee wants the 2023 legislature to revise state policing laws adopted in 2021.
- The Senate Committee Chair refused to conder legislation in her Committee and wanted to study the issue for 18 months instead.
- **HB 1363** passed the House & is still alive!
- HB 1053, HB 1586, SB 5034, SB 5352, SB 5533 are technically dead.

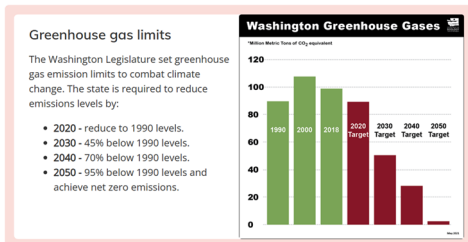
Crime in Washington State and Governor Inslee’s proposals to reduce crime.

- Governor Inslee wants the 2023

legislature to do a number of things to reduce crime in WA State.

- There are 71 proposed legislative bills on crime for the 2023 Legislature. Click on the blue link:
- See: www.ibaw.net/linksmar23.pdf #2
- 12 of those are still alive and moving.

Climate change what's happening now and what Governor Inslee wants



the 2023 Legislature to do:

- Governor Inslee wants the 2023 legislature to continue on with the current state laws to minimize climate change and has a number of other new climate change proposals for 2023. Below is a chart about Washington states climate change challenge and goals. You can access this chart at: www.ibaw.net/linksmar23.pdf #3

HB 1170 requires more regular updates to climate change plans and has passed the House

- HB 1181, SB 5203 required climate change to be part of the WA Growth Management Act process. HB 1181 passed the House and is still alive.
- HB 1193 is technically dead

Covid and the state's recovery from Covid · The Governor is proud of his handling of Covid over the past couple of years.

New WA Business Tax?

- HB 1644 & SB 5482 propose to replace the Washington State B&O tax with a state business **Margin Tax** on 1/1/2026. Alternative Property Tax Growth Limitation

IBA comment: Basically, a Margin Tax is a hybrid tax between a B&O tax

and an income tax. This may be challenged in the courts if adopted by the Legislature given Washington State's history of "no income tax."

How A Margin Tax Works

The proposal is that the B&O tax is eliminated starting December 31, 2025, and the margin tax begins for gross income earned after 1/1/2026. (as stated in SB 5482),

A **simplified explanation** of this margin tax proposal, businesses are taxed at whatever rate the Legislature decides (4 different rates have been recently proposed):

The tax is calculated as gross income **minus** the **largest of the following** four deductions:

- Cost of goods sold,
- Compensation paid,
- A fixed percentage of gross receipts (e.g., 30%), or
- A flat amount (as proposed: \$1 million) (benefits most small businesses - subject to change now or in the future).

After the deduction amount is subtracted, a single-factor sales apportionment method is used to determine the amount of the business's worldwide margin that is attributable to Washington. For combined groups, each member of the group is included for purposes of attributing Washington income, if any member of the combined group has nexus in Washington. "Nexus" means subject to Washington State taxes. This is referred to as the Finnigan apportionment method. The amount attributable to Washington is multiplied by a flat, revenue neutral rate, to determine the tax due. (as stated by the **TAX STRUCTURE WORK GROUP** recommendation report)

Under this proposal, the Margin Tax is imposed on the same entities that are now subject to B&O tax, including corporations, partnerships, limited liability companies, sole proprietorships, and nonprofits. Activities subject to

public utility tax under current law remain subject to public utility tax and are excluded from the Margin Tax. This proposal maintains Washington's surcharges which are imposed on certain industries and activities. It also maintains Washington's current registration and nexus thresholds. (as stated by the **TAX STRUCTURE WORK GROUP** recommendation report). The four tax rate considered to date are:

- **2.8334%** for revenue neutrality for the 2027-29 Biennium as stated on 10/31/2022) DOR analysis,
- **2.8887%** for revenue neutrality for the 2025-27 Biennium as stated by the WA Dept. of Revenue ((DOR) analysis 12/31/2022,
- **2.9449%** for revenue neutrality for the 2030-31 Biennium as stated in 12/09/2022) DOR analysis, and
- **3.1996%** (as stated in SB 5482 on 01/19/2023),

Plus a 1.22% workforce education surcharge.

At this time, the Margin Tax is technically dead in the 2023 Legislature but it can be brought back to life before the Legislature goes home.

New Road Use Tax Coming?

Since Electric Vehicles (EVs) made up 11.7% of new car sales in King County, 7.8% in Washington, and 4.4% nationally reported KUOW radio. See: www.ibaw.net/linksmar23.pdf #4

The 2023 Legislature is looking for new ways to fund the state's transportation system and is considering a **Road Use Charge** "Tax" that would replace the state's current gasoline and diesel tax of 49.4-cents per gallon when you fuel your vehicle with a petroleum-based fuel. Click on the blue link for more information: www.ibaw.net/linksmar23.pdf #5

The Road Use Charge being considered is 2.4-cents per mile driven.

SB 5574 proposes to start this new Road Use Charge (RUC) on July 1,

2027. The 5+ page SB 5574 has no tax rate in it and the July 1, 2027 date gives the Departments that would implement this tax the authority to implement this new RUC tax with the RUC tax rate to be set by a later Legislature. SB 5574 has not had a hearing as yet and likely will not have a hearing and is technically dead. Click on the blue link for more about SB 5574: www.ibaw.net/linksmar23.pdf #6

The Washington State Department of transportation conducted a pilot study with real Washington State drivers to test the "Road Use Charge" concept and get driver reactions; Below is a summary of the pilot study reactions by drivers at:

What Drivers Told The State

Over 15 million miles reported and mock-charged at 2.4 cents per-mile

3 surveys, 6 focus groups, and a project help desk that actively gathered feedback

Nearly 1,900 emails and phone calls received from test drivers (67%) and members of the public (33%)

Top concerns and questions include:

- Privacy and data collection
- Compliance and administration costs
- Fairness and equity
- Travel between states
- Operational viability

You can find out more about the "road use tax" and the pilot project by clicking on the blue link below: www.ibaw.net/linksmar23.pdf #7

At this time, the Road Use Tax is technically dead in the 2023 Legislature but it can be brought back to life before the Legislature goes home.

Contractor Recovery Fund?

HB 1534 proposes to set up a new **Construction Industry Consumer**

Protection program to improve consumer protection in the construction industry. HB 1534 proposes:

- **Contractor bonds.** For initial registrations and renewal contractor registrations occurring on or after July 1, 2024, the required bond amount is increased to \$30,000 for general contractors and \$15,000 for specialty contractors.
- **Successors** with prior judgments. L&I is required to deny an application for registration when the applicant is a successor to a business entity with an unsatisfied final judgment against it relating to work governed by the Contractor Registration Act, or a business entity that owes L&I money for penalties assessed or fees as a result of a final judgment. A "successor" means a contractor who acquires through sale, lease, gift, or any process, all or part of the operating assets of another business entity, where the contractor is under substantially common ownership, management, or control of the other business entity.
- **Recovery fund** for consumers who have been economically harmed by a registered contractor

IBA Thoughts: IBA is working on this legislation to ensure it benefits contractors and their customers. HB 1534 is technically dead.

More Information: Click on the blue link below for more about HB 1534. <http://www.ibaw.net/1534.pdf> #8

SB 1534 passed the Senate and is alive

More Small Business Legislation Of Note

As the 2023 Legislature continues, a number of legislative bills affecting small businesses have caught IBA's attention. Below is a summary of some of those bills. Click on the blue link for more information.

HB 1106 Allowing Unemployment Benefits for More Voluntary Quits
Current Washington State unemployment law allows a worker to quit and

qualify for unemployment benefits if the separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of an immediate family member and must still conduct an active work search.

IBA's thoughts: Concerns: HB 1106 will increase the cost of unemployment and likely increase UI costs for employers and charged to the employer's unemployment experience rating.

More Information You can access more information on HB 1106 at: www.ibaw.net/linksmar23.pdf #8 Passed the House & is still alive!

HB 1197 Attending physicians for Industrial Insurance Claims

Allowing a psychologist to be an attending physician for Industrial Insurance claims that are solely for mental health conditions. Passed the House & still alive!

IBA's thoughts: Concerns: Adding prescribing psychologists to the list of those caring for an injured worker could create confusion and conflicts between medical doctors and the prescribing psychologists & may increase the cost of Industrial Insurance claims.

More Information: You can access more information on HB 1197 at: www.ibaw.net/linksmar23.pdf #9

HB 1320 Employee access to personnel files Employers must provide, within 14 calendar days of a request by an employee, former employee, or their attorney, agent, or fiduciary, a complete, unredacted electronic or paper copy of the employee's personnel file(s) at no cost to the employee. Passed the House & still alive!

IBA's thoughts: Concerns: This creates a new requirement for employers and also impacts how they keep their personnel records.

More Information: You can access more information on HB 1320 at: www.ibaw.net/linksmar23.pdf #10

SB 5123 Cannabis Use by Workers - Employer Limitations

SB 5123 Prohibits employers from discriminating against a person in hir-

ing if the decision is based upon:

- The applicant's use of cannabis off the job and away from the workplace; Passed the Senate & still Alive!
- **Does not:**
 - Prohibit an employer from basing initial hiring decisions on certain scientifically valid drug screening;
 - Testing for controlled substances other than pre-employment, such as post accident testing or testing because of suspicion of impairment;
 - Affect the rights or obligation of an employer to maintain a drug and alcohol free workplace; or
 - Preempt state or federal law requiring an applicant to be tested for controlled substances as a condition of receiving employment.

IBA's thoughts: SB 5123 Bad Bill. IBA testified opposed to the legislation as employers have an obligation to keep their workers safe. Workers affected by cannabis can be unsafe or make it unsafe for other workers.

SB 5123 Passed the House & still alive!
www.ibaw.net/linksmar23.pdf #11

Call your legislators NOW!

WA Economy & YOU!

What does the future of the Washington State economy look like?

YOU will be affected by the Washington 'state economy in a number of ways. You, your business, the budget the 2023 Legislature will pass that will depend on the state's economic and revenue forecast. What the state does with the Homeless issue will affect you, Governor Inslee's 2023 \$4 Billion Homelessness proposal and affect you.

Below is a summary of the 35 page March 3, 2023 economic forecast by a highly respected group of economists. You can access the full report at:
www.ibaw.net/linksmar23.pdf #13

Summary

- Slightly negative U.S. GDP growth for first three quarters of 2023, but

higher than expected 2022 Q4 data raises GDP forecast slightly.

- Inflation is expected to be slightly lower in 2023 and 2024 compared to the November forecast.
- The Federal Reserve is expected to raise the federal funds interest rate to a range of 5.0% – 5.25% by May 2023; a decrease in rates not expected until 2024 Q2.
- WA building permits forecast has been revised down compared to November.
- Revenue collections since the November forecast are \$89 million (1.1%) above expectations.

Forecast Risks & Upsides

Upsides

- Consumer spending, labor productivity are stronger than expected.
- Quicker resolution of Russia – Ukraine conflict will lead to lower energy and grain prices.

Risks

- Rising interest rates push economy into recession.
- Russia – Ukraine conflict intensifies, leading to higher prices for energy and grains.
- Congress fails to raise debt ceiling.

Recession Prospects

Recession is likely because

- Inflation remains high, leading Federal Reserve to continue to raise interest rates
- Yield curve is inverted - common sign
- Layoff announcements have increased

Inflation is unlikely because:

- Labor market remains very strong
- Consumption patterns returning to pre-pandemic patterns.
- Inflation has slowed, allowing Federal Reserve to forego further interest rate hikes.

More Economic Signs

- **New orders for U.S. core capital goods slowed in Nov. and Dec. 2022, picked up in Jan. 2023:** Page 18 of the forecast
- **WA and U.S. residential construction activity has trended down**

since July 2022: Page 19 of the forecast

- **U.S. GDP is slightly higher than in November:** Forecast Page 22
- **Oil prices are lower than the November forecast:** Forecast Page 23
- **WA inflation forecasts slightly lower in 2023 and 2024 compared to November:** Forecast Page 24
- **WA Revenue Act collections growth for December activity was 6.4%, down from 10.2% for November activity:** Forecast Page 26

The WA economic forecast its reported by the Washington State Economic & Revenue Forecast Council. A group of highly recognized economists with oversight by a bi-partisan group of state elected officials. You can see this forecast at the blue link below at:

www.ibaw.net/linksmar23.pdf #12

Economy, USA Debt Limit & YOU

While the USA and Washington State's economy forecasts appear to be OK, things could change quickly unless the Republican controlled U.S. House of Representatives agrees to increase the national debt limit as requested USA Treasury Department Chair Janet Yellen.

Many voters are confused about the debt limit. Many believe that it has to do with government spending. Raising the debt limit does not increase government spending, it only allows the federal government to fund spending already approved by Congress and the President.

Controlling USA government spending must be done by the Congress and the President before additional federal spending is approved,

Failing to approve an increase in the USA debt limit is like going bankrupt, It will really mess up the USA, Washington State, your business, your personal finances, and the economy.

The US Department of Treasury has issued a statement on what would likely happen if the Congress does not increase the USA Debt Limit soon: You can find that statement at the blue link

below: www.ibaw.net/linksmar23.pdf #13 requested to discuss his \$4 Billion ask.

The recent bank failures are just a tiny example of what could happen if the House or Representatives continues to delaying dealing with the USA debt limit.

Inslee's \$4 Billion Request & YOU!

Governor Inslee is asking the WA Legislature to approve a \$4 Billion loan request to address Washington State's homeless problem and he may need your vote to get it done. What say you?? It's your money!

The homeless have taken over many areas of our city public areas, parks, sidewalks, under freeway ramps, etc.. Most agree, homeless camps are a blight on our cities, parks etc. and limit our use of our public spaces. The homeless camps generally leave lots of garbage around their area, drug use is high, crime is significant at their sites, etc.

Does Governor Inslee have the right idea?

Some legislators are supporting Inslee's request but enough others are not and this puts the future of Inslee's ask in doubt.

Remember, this will be **YOUR MONEY**. As your money, you will have to repay your share of the \$4 Billion loan.

You can see the Governor's 12-page \$4 Billion Ask at: www.ibaw.net/linksmar23.pdf #14

There are many parts to this issue. Please read them all as they affect **your money**, your quality of life and our society.

The parts include:

- **What will we get for \$4 Billion?**
- **Will it end homelessness in Washington State?**
- **Will it work or will we just build a bunch of housing that is unused?**
- **What are the alternatives?**

On February 27, Governor Inslee called KIRO radio, unplanned, and

What will we get for \$4 Billion?

Inslee – Interview With KIRO:

Inslee: *"This is not just one thing for the homelessness, it's multiple things. It is increased mental health treatment. It is increased chemical addiction treatment, and this additional roof to live under, and that's really important," Inslee said. "The longer I'm in this, the more I understand we just don't have enough housing, period." "We've had about a million-plus people move in in the last decade, but we've only built about 350,000 housing units."*

The additional money would pay for about 5,300 housing units between 2023 and 2025 and 19,000 in the following six years, according to the proposal. Nearly 13,000 people are living unsheltered throughout Washington state — up from more than 10,500 in 2020, according to the state's 2022 Point in Time Count.

IBA Comment: Governor Inslee identified the problem as 25,500 people are homeless currently in Washington State. But he also alluded to that Washington State is short 650,000 housing units for the 1 million people who have moved to Washington state in the past 10 years. The \$4 Billion only provides funding to build 24,000 housing units in the next 8 years at an estimated cost of \$83,000 per unit (IBA's calculation).

Will it end homelessness in Washington State?

Inslee – Interview With KIRO

Inslee: *"I take that as a rhetorical question. I'm not going to guarantee you, you wont see tent out near Washtenaw. No one is going to be allowed on our right-of-ways, We're doing that now, If we have a place for them with some degree of privacy, they have to go."*

Does the law allow you to compel treatment?

Inslee – Interview With KIRO:

Inslee: *"In a sense yes. I think the Legislature will pass legislation that will continue to have a criminal sanc-*

tion for the possession of these drugs and people will have to go into treatment or be criminally sanctioned. We have to provide the treatment providers. That is a challenge right now and we'll have to deal with that."

Inslee – Interview With KIRO:

Inslee: *"I hope the Legislature gets a giant revenue forecast increase in a couple of weeks so we don't have to go the voters for this funding."*

IBA Comment: Governor Inslee did not get his hoped for forecast.

Clearly, Governor Inslee is not very confident that he can get the \$4 Billion from the Legislature and from the people. He's hoping & praying. **You?**

Will it work or will we just build a bunch of housing that is unused?

IBA Comment: No guarantee it will work by Governor Inslee as he stated earlier. It is a hope and a prayer by Governor Inslee. Your legislators need to hear from you NOW on this issue. There are 147 Legislators and 4,798,011 registered voters (\$833+/voter) in Washington State that will decide this issue. Call them at **1-800-562-6000**. The Legislative attendant will help you identify your legislators.

Sample Messages:

Supporting Governor Inslee's \$4 Billion plan to address homelessness:

Please support Governor Inslee's \$4 Billion homelessness plan (**use your own words**) as we must address homelessness and it is unfair for Washington State citizens to leave people living on the streets.

Opposing Governor Inslee's \$4 Billion plan to address homelessness:

Please oppose Governor Inslee's \$4 Billion homelessness plan (**use your own words**) as the Governor provides no assurance that his plan will effectively address homelessness. The Governor's plan is strong on hope but very weak on proof it will work. The Governor's plan is a gamble at best and is built on a hope and a prayer. Washington state lawmakers should not gamble with the citizen's tax dollars. This plan will cost \$833+/voter if approved.

What are the alternatives?

IBA Comment: There are effective-

ly no other alternatives on the table at this time. Many cities, counties and states have tried but failed to address homelessness.

Crime and Us

March 3, 2023 two guys broke into a credit union (bank) in Lakewood, WA (near Tacoma) by using a stolen truck to crash through the bank's front windows at 5am. The guys go in the building and wrap chains around the ATM machine and pull it out of the front of the credit union and head down the street dragging the ATM.

Police arrive and assess the scene. While assessing the scene, the police can hear the truck dragging the ATM around nearby streets.

The police hear a crash as the dragged ATM swings into a parked car while being dragged around a corner.

Do the police pursue the truck dragging the stolen ATM?

No!

Why not?

Because it is a property crime and the 2021 Legislature's police vehicle pursuit law prohibits police from pursuing a vehicle involved in a property crime.

The police did follow the truck dragging the ATM to get its license number but did not try to stop it because of the 2021 police pursuit law. See Page 1 "Police Pursuit Law" & HB 1363 of this Report.

Contact your Legislators at **1-800-562-6000** and tell them how your feel.

Salaried Workers & Overtime Pay

Federal law provides a special overtime pay exemption for highly compensated employees HCE's, **BUT!**

But the US Supreme Court recently ruled on how the HCE exemption applies in a surprise ruling.

The Court recognized the validity of the HCE exemption in some cases but

not others. Employers attempting to qualify for the overtime pay exemption for HCE employees must pay attention here. Click blue link below: www.ibaw.net/linksmar23.pdf#15

In a bit of a convoluted decision, the Court ruled that while the Plaintiff employee "Hewitt" was paid an amount sufficient to qualify for the HCE exemption, but his employer "Helix" did not meet a "new" "Reasonable Relationship Test" requirement identified by the Court to qualify for that exemption.

Employee Hewitt worked for Helix on an offshore oil rig, typically working 84 hours a week while on the vessel. Helix paid Hewitt on a daily-rate basis, with no overtime compensation. Hewitt's paycheck, issued every two weeks, amounted to his daily rate times the number of days he had worked in the pay period with no overtime pay. Under that compensation scheme, Hewitt earned over \$200,000 annually.

The Court ruled that the HCE exemption requires two key elements:

1. Compensation exceeding \$455 per week on a salary basis or at least \$100,000 in total annual compensation. Currently (adjusted for inflation), those figures are now \$684 per week and \$107,432 annually. Employee Hewitt's daily pay rate ranged, over the course of his employment, from \$963 to \$1,341 per day, well above the HCE weekly pay exemption rate.
2. Employer Helix failed to also meet the Court's newly identified "Reasonable Relationship Test." The Court said "*an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked.*" (29 CFR §604 (b)). The court ruled that: "*since the plaintiff Hewitt was paid a day rate of \$963 to \$1,341 per day the employer failed to meet the "Reasonable Relationship*

Test" by failing to pay the employee the minimum pay rate of \$684 per week or \$107,432 in order to meet the "Reasonable Relationship Test." The Court found Employee Hewitt's pay was based on a day rate, not a minimum weekly or an annual pay rate as the regulation requires and thus did not meet the \$684 per week required HCE pay rate because it was based on a daily pay rate, not a weekly pay rate, regardless of days or hours worked. An extremely close and hair-splitting reading of a federal regulation. Now, it's the law of the land!

The following is not legal advice and the readers should consult with a qualified attorney for legal advice on this issue. Employers appear to have to comply with the \$684 per week and \$107,432 annually requirement of federal law to be exempt of federal overtime pay requirements.

Salaried Workers & Overtime Pay In WA.

Washington state has different overtime pay exemption regulations for salaried employees than the federal HCE exemption.

For more details click on the Washington State regulations click on the blue links for details:

- [9.1](#) Questions about Overtime & Salary basis. **Review this first.**
- [9.2](#) **White collar** worker overtime exemption—also see 9-9.
- [9.3](#) **Executive** overtime exemption.
- [9.4](#) **Administrative** overtime exemption - also see 9.8.
- [9.5](#) **Professional** overtime exemption—also see 9-8.
- [9.6](#) **Computer Professional** overtime exemption.
- [9.7](#) **Outside salesperson** exemption—also see 9-8.
- [9.8](#) Definition of fee basis in Administrative, Professional and Outside sales positions.
- [9.9](#) Salary threshold for exemptions from minimum wage act for white

collar workers.
www.ibaw.net/linksmar23.pdf #16

New Safety Inspection Subpoena Authority?

OSHA will increase their use of subpoenas in **June 2023** as part of their safety inspection process according to our friends at SHRM. This may apply in Washington State. Click on blue link below for more details:
www.ibaw.net/linksmar23.pdf #17

For more information about “interim final rules” Click on the following blue link:
www.ibaw.net/linksmar23.pdf #18

Union Rep. On Your Safety Inspection?

OSHA safety inspectors will be able to allow a union representative to accompany the OSHA inspector during a facility walkaround — regardless of whether the representative is your employee or your business is a union shop according to our friends at the Fischer Phillips law firm.

IBA NOTE: This proposal would apply to all firms, whether a union shop or not.

IBA NOTE: This union rep on a safety inspection could come to Washington State if adopted by OSHA as Washington State’s safety laws are required to be equal to or stronger than OSHA’s safety laws.

OSHA took the position that even this regulation allows the agency’s compliance officer to decide to allow a non-employee to participate in an inspection of an employer’s worksite if it “is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace.”

Effectively, OSHA amended its regulation to shift the focus from requiring OSHA to find that such representatives are necessary to have “an effective and thorough” inspection to having such representatives whenever they “make a positive contribution” to

OSHA’s inspection — which is a much lower bar.

The Fischer Phillips law firm goes on to explain that this same policy was adopted by the Obama administration while Joe Biden was Vice President and removed by the Trump administration.

The Fischer Phillips law firm goes on to explain the 5 steps employers can take to protect your business if this order comes to pass.

You can find the full Fischer Phillips report, at the blue link below
www.ibaw.net/linksmar23.pdf #19

You can find the Obama administration’s policy at the blue link below:
www.ibaw.net/linksmar23.pdf #20

Flying on Hydrogen

On March 2, 2023 history was made in Pasco, Washington. The first commercial airliner fueled by hydrogen took off from Pasco, Washington and flew on a test flight powered by hydrogen!

Two VERY NOTABLE ITEMS here,
 1. A plane powered by Hydrogen,
 2. Pasco Washington as the test location.

Hydrogen??
 Why hydrogen??
 Why Pasco, Washington?

Up until now, airplanes have used petroleum-based fuels to fly. Petroleum based fuels are carbon-based fuels and when the fuel is used to power the aircraft, the aircraft emits carbon dioxide which is a greenhouse gas and contributes to global warming and climate change.

Hydrogen was used in fuel cells on the test aircraft. The fuel cells generated enough electric power to fly the plane and water, no carbon dioxide.

Fuel cells have been used in space travel by NASA since the 1960’s.

According to Wikipedia The first fuel cells were invented in 1838. The first commercial use of fuel cells came in

1932. Fuel cells are being used for primary and backup power for commercial, industrial and residential buildings and in remote or inaccessible areas. They are also now used to power fuel-cell vehicles, including automobiles, buses, trains, boats, motorcycles, forklifts, and submarines.

This historic flight used the hydrogen fuel cell to power an electric motor that powered one of the two propellers on this test plane.

The hydrogen tank was installed in the cabin of the test aircraft and took up the space of 10 of the 50 seats on the aircraft. No passengers were aboard.

WOW!!!

A Climate Change solution? Possibly.

Hydrogen is highly explosive and thus a very risky fuel to use.

Hydrogen fuel cells are not cheap.

More good news: There are many different types of fuel cells and some that do not use hydrogen.

Learn more about this historic flight at: www.ibaw.net/linksmar23.pdf #21

Learn more about fuel cells at: www.ibaw.net/linksmar23.pdf #22

Pasco Washington??

Why test the first plane powered by hydrogen in Pasco Washington?

Because Pasco, Washington has some really smart and creative people.

Pasco has a huge number of highly educated and creative people because of the Hanford Nuclear Reservation and its also been the home of the Hanford Engineer Works since 1943.

This hydrogen fueled flight was sponsored by a California company, Universal Hydrogen Co., a Southern California-based aviation company founded in 2020 by engineers that knew Pasco Washington has smart and creative people to help achieve this milestone.