



# Unemployment Insurance Advisory Committee

## Meeting details

**Date:** Friday, February 25, 2022

**Time:** 2:00 p.m. to 3:00 p.m.

**Location:** Zoom

### Committee members present

- Robert Battles
- Joy Emory
- Julia Gorton
- Sybill Hyppolite
- Cindy Richardson
- Josh Swanson
- Jerry VanderWood
- Brenda Wiest

### ESD staff

- Joy Adams
- Danielle Cruver
- Joshua Dye
- Wendy Goldmark
- Matt Klein
- Nona Mallicoat
- Scott Michael
- Jeff Robinson
- Dan Zeitlin

### Office of Administrative Hearings staff

- Brendon Tukey
- Joshua Sundt

### Committee members absent

- Tammie Hetrick

## Summary

### Meeting Recorded

This meeting was [recorded](#).

This meeting was also [livestreamed](#) by TVW.

### Welcome and Opening Remarks

Employment Security Department (ESD) Policy Director, Dan Zeitlin, welcomed everyone and asked Wendy Goldmark to take roll call. All committee members were present except Tammie Hetrick.

### Agenda

Dan Zeitlin reviewed the meeting agenda and asked if anyone had any questions. (See Addendum I.)

### Meeting Minutes

Dan Zeitlin requested that everyone review the meeting minutes for January 28, 2022, and provide their feedback. Julia Gorton made a motion to approve the minutes and Brenda Wiest seconded the motion. Dan asked for all members in favor to say, “Aye.” All members responded, “Aye”. Dan asked members that oppose to say, “Nay.” No one responded. The January 28, 2022 meeting minutes were approved.

### Opening Discussion

Dan Zeitlin opened the meeting discussion with a [slide presentation](#) and highlighted the below topics to be covered.

- UI State Legislative Update
  - SB 5873 Communications Plan
  - ESD Budget
- UI Rulemaking Update
  - Brief Adjudicative Proceeding Rule

Dan Zeitlin handed the meeting over to Scott Michael, ESD Legal Appeals and Rulemaking Manager, to continue the discussion.

### 2022 Unemployment Bills of Interest

- Engrossed Substitute House Bill 2076
  - Convenes a work group of industry and labor stakeholders to “study the appropriate application of Title 50” on transportation network companies and drivers.
  - Employment Security submits a report by December 1, 2022 on “findings and suggested changes to state law to establish applicable rates and terms by which transportation network companies and drivers participate” in unemployment insurance.

- Engrossed Substitute Senate Bill 5873
  - For 2022 tax rate year
    - Reduces the flat social cost factor from .75% to .50%
  - For 2023 tax rate year
    - Reduces the maximum flat social cost factor from .80% to .70%
    - Employers with 10 or fewer employees have a graduated social tax capped at Rate Class 7

**SB 5873 Communications Plan**

Notable messaging to employers (subject to revision)

Timing	Audience	Channel
When bill is signed	Media	News release
When bill is signed	Website visitors	Alert on esd.wa.gov
Within one week	Employers, stakeholders, news media, general public	Web (updates to esd.wa.gov)
Within two weeks	Employers	Email
Within four weeks	Employers	Mail (tax rate notice and instructional insert)

**2022 Legislative Budget**

- The House and Senate both released budget proposals on February 21.
- The House budget provided \$4.6 million in General Fund-State to provide additional resources for Unemployment Insurance caseloads if backlogs increase. The Senate budget did not include this funding.
- Both the Senate and House budgets provided full time equivalent (FTE) authority for state fiscal year 2022, needed by the large increase in non-permanent staff.
- The Senate budget also included \$702,000 in administrative funding to implement Senate Bill 5873.

House v. Senate

Description	Senate	House
<b>Paid Family and Medical Leave</b>	\$350 million (Sect 715) for fund reserve. Also exempts from affecting rate setting (Sect 954)	Does not address reserve or cash flow but does include almost \$400M to buy down rate for this calendar year 2023
<b>Economic Security for All</b>	\$6.2 million (GF-State)	\$6.2 million (GF-State)
<b>WorkSource (WIT) System Replacement</b>	\$4.8 million	\$4.8 million
<b>PFML Staffing model</b>	FTEs included	FTEs included
<b>UI FTEs for backlogs/staffing model</b>	Not included	Included \$4.6 million
<b>1732 LTS Program Delay</b>	(\$1.6 million)	(\$1.6 million)
<b>1733 LTS Exemptions</b>	\$5.3 million	\$5.3 million
<b>SB 5649 -PFML changes</b>	\$1.7 million	\$100k for actuarial services
<b>SB 5847 – Public employee info</b>	\$262,000	\$0*
<b>5873 – Unemployment premiums</b>	\$702,000	\$0*
<b>Total Appropriation (all funds)</b>	<b>\$1,674,653,000</b>	<b>\$1,683,917,500</b>

Rulemaking Agenda Update

- Rulemaking hearing on March 24 at 9:00 a.m.
  - Making COVID-19 emergency rules permanent.
  - Determining what is an underlying health condition that puts someone at high risk for serious illness from COVID-19.
- Technical Corrections
  - Removing lump sum retirement rule.
  - Updating definition of domestic violence.
  - Updating cross-reference on rule requiring claimants to personally certify their unemployment claims.

Brendon Tukey, Division Chief Administrative Law Judge, Office of Administrative Hearings (OAH) joined Scott Michael to continue the discussion.

## Brief Adjudicative Proceeding Rule

### Appeal Backlog

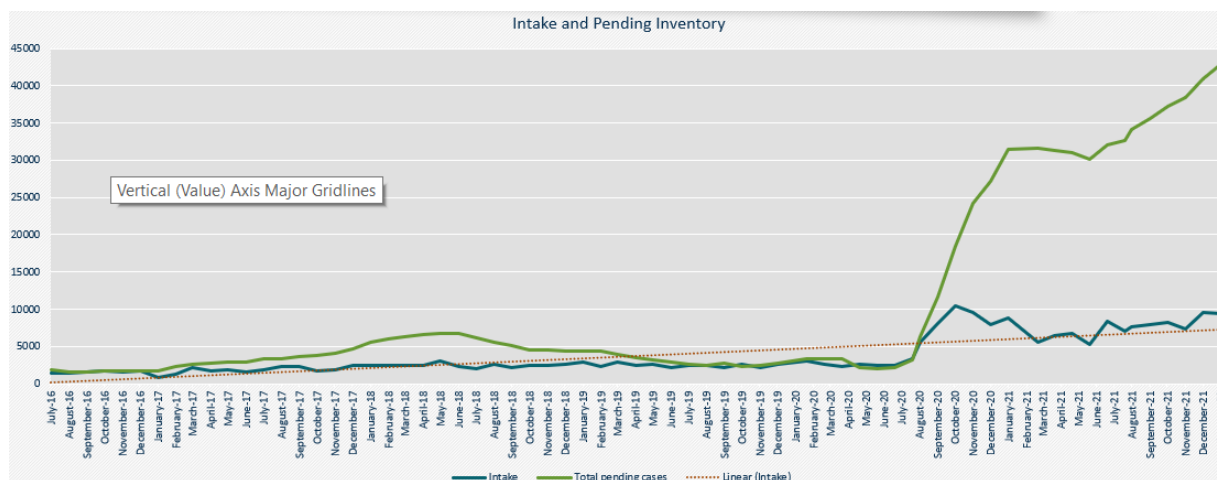
#### Numbers as of December 2021

- 40,947 pending appeals
- 167 days waiting for a hearing
- 4% of cases closed within 45 days\*

#### Numbers as of December 2019

- 2,470 pending appeals
- 31 days waiting for a hearing
- 94% of cases closed within 45 days

\* Federal standard is 80% of cases closed within 45 days



## Brief Adjudicative Proceeding Rule

- What is a brief adjudicative proceeding?
  - All parties get to submit their written arguments and evidence to the OAH Administrative Law Judge (ALJ) to review.
  - ALJ issues a decision based off the written record.
  - No need for anyone to take time off work to appear in front of an ALJ to give testimony or verbal argument.
- When will this be used?
  - Only where the claimant is the appellant, and there is no employer involved.
  - Only when the ALJ decides the case is right for a brief adjudicative proceeding.

- Conversion to a regular hearing
  - Claimant can request that a brief adjudicative proceeding be converted to a regular hearing. This is automatically granted.
  - ALJ can decide, upon review of the written record, that a regular hearing is needed.
- Petition for review rights
  - Claimant can file petition for review of the outcome of a brief adjudicative proceeding.
  - If this occurs, case is sent back to have a regular hearing.

### **OAH Implementation**

- First start mailing notices of hearing for brief adjudicative proceedings on April 1.
- Hearing notices will give parties 5 weeks to submit evidence and documents.
- 10 ALJs will be assigned to conduct brief proceedings at the outset.
- Implementation may be adjusted based on the experience of claimants and the ALJs.

Scott Michael handed the meeting back to Dan Zeitlin to continue the discussion.

### **Action Items**

- The committee expressed an interest in continuing to receive updates on the appeals backlog to include a demographic breakdown that captures the impact of the brief adjudication proceedings rule.

### **Next Meeting**

Dan Zeitlin noted that this was the last meeting on the 2022 calendar. He proposed adding one more meeting March 25, 2022 from 2:00 p.m. to 3:00 p.m. to present a recap and any updates from the legislative session. All present committee members agreed.

### **Public Comments**

Sara Garner - Claimant  
Chelsea Rustad

### **Adjourned**

Dan Zeitlin thanked everyone for their continued active participation and for their commitment to this work, then ended the meeting at 3:08 p.m.

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### **Next meeting**

The next Unemployment Insurance Advisory Committee meeting has been scheduled for Friday, March 25, 2022 from 2:00 p.m. to 3:00 p.m. via Zoom.

## Addendum I

### Agenda

#### Unemployment Insurance Advisory Committee (UIAC)

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Friday, February 25, 2022 | 2:00 pm – 3:00 pm | Via Zoom

#### Agenda Items

<b>Time</b>	<b>Topic</b>
2:00 pm	Welcome from Dan Zeitlin, Director of Employment System Policy & Integrity (ESPI) Division, Employment Security Department (ESD) <ul style="list-style-type: none"><li>○ Agenda Review</li></ul>
2:05 pm	Approval of January 28, 2022 Meeting Minutes
2:10 pm	UI State Legislative Update/Discussion <ul style="list-style-type: none"><li>➤ SB 5873 Communications Plan</li><li>○ Scott Michael, Legal Services Manager, ESD</li></ul>
2:30 pm	UI Rulemaking Update/Discussion <ul style="list-style-type: none"><li>➤ Brief Adjudicative Proceeding Rule</li><li>○ Scott Michael, Legal Services Manager, ESD</li><li>○ Brendon Tukey, Division Chief Administrative Law Judge, OAH</li></ul>
2:50 pm	Future Meetings <ul style="list-style-type: none"><li>○ Dan Zeitlin, Director, ESD</li></ul>
2:55 pm	Public Comments
3:00 pm	Adjourn

For more information, please visit the UIAC website at <https://esd.wa.gov/newsroom/UIAC>

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