

Multiple Agency Fiscal Note Summary

Bill Number: 2805 HB	Title: Public works/off-site prefab
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Estimated Cash Receipts

Agency Name	2009-11		2011-13		2013-15	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Attorney General	0	84,954	0	169,906	0	84,953
Department of Labor and Industries	Non-zero but indeterminate cost. Please see discussion."					
Total \$	0	84,954	0	169,906	0	84,953

Local Gov. Courts *						
Local Gov. Other **						
Local Gov. Total						

Estimated Expenditures

Agency Name	2009-11			2011-13			2013-15		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Attorney General	.3	0	84,954	.6	0	169,906	.3	0	84,953
Department of General Administration	.2	0	0	.3	0	0	.3	0	0
Department of Labor and Industries	.4	0	196,000	.6	0	329,000	.0	0	54,000
Total	0.9	\$0	\$280,954	1.5	\$0	\$498,906	0.6	\$0	\$138,953

Local Gov. Courts *									
Local Gov. Other **									
Local Gov. Total									

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID 25879

FNS029 Multi Agency rollup

Estimated Capital Budget Impact

Agency Name	2009-11		2011-13		2013-15	
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Department of General Administration						
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	26,386	26,386	26,386	26,386	26,386
Department of Labor and Industries						
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	0	0	0	0	0
Office of Attorney General						
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	0	0	0	0	0
Total \$	\$0	\$26,386	\$26,386	\$26,386	\$26,386	\$26,386

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Prepared by: Chris Stanley, OFM	Phone: (360) 902-9810	Date Published: Revised
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

Individual State Agency Fiscal Note

Bill Number: 2805 HB	Title: Public works/off-site prefab	Agency: 100-Office of Attorney General
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2010	FY 2011	2009-11	2011-13	2013-15
Legal Services Revolving Account-State 405-1		84,954	84,954	169,906	84,953
Total \$		84,954	84,954	169,906	84,953

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	0.0	0.6	0.3	0.6	0.3
Account					
Legal Services Revolving Account-State 405-1	0	84,954	84,954	169,906	84,953
Total \$	0	84,954	84,954	169,906	84,953

Estimated Capital Budget Impact:

	2009-11		2011-13		2013-15	
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	0	0	0	0	0
Total \$	\$0	\$0	\$0	\$0	\$0	\$0

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Alison Hellberg	Phone: 360-786-7152	Date: 01/19/2010
Agency Preparation:	Gretchen Leanderson	Phone: 253-597-4434	Date: 01/27/2010
Agency Approval:	Sarian Scott	Phone: (360) 586-2104	Date: 01/27/2010
OFM Review:	Chris Stanley	Phone: (360) 902-9810	Date: 01/27/2010

Request # 10-072-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1 adds a new section to RCW 39.12 for any public work estimated to cost over \$1 million. The contract must contain a provision requiring all contracts entered into by the prime, all subcontractors and their contractors and employers who aren't required to register as contractors under RCW 18.27, to submit a certified list of any off-site, pre-fabricated items produced under the contract terms and produced outside Washington. The list must be submitted to the awarding agency and the Department of Labor and Industries (LNI) within 10 days of delivery of the item under the contract. Subpart (1) (b) requires the awarding agency to notify LNI of non-compliance. Penalties may be assessed for non-compliance. There is an exception for first time violators. Under subpart (1) (c) contractors and subcontractors must notify the awarding agency as well, upon receipt of the off-site prefabricated item produce outside of Washington State.

Section 1, subpart (2) requires public works contracts estimated to be over \$1 million, a provision requiring all contracts entered into by the prime contractor, all subcontractors and their subcontractors, who aren't required to register as contractors under RCE 18.27 for the production of off-site prefabricated items produced outside of Washington State, produce certified copies of payroll records as contained under section 1, subpart (3) and must consent to the jurisdiction of Washington for the enforcement of section 1, subpart (3). Failure to comply subjects the prime contractor or subcontractors or their subcontractors or the employer to \$1,000 for the second or subsequent failure to comply.

Section 1, subpart (3) requires a contractor, subcontractors and employers produce the certified copies of payroll records within 10 days of request by an interested party. It details what is to be included in the records. The awarding agency must report any instances of inconsistencies to LNI. Failure to produce the certified copies subjects the contractor, subcontractor or employer to penalties under RCW 39.12.050.

Section 1, subpart (5)(a) requires the lists, payroll records and certifications be submitted on forms made available by LNI.

Section 1, subpart (5)(b) requires the Department of General Administration (GA) to develop standard contract language to meet the requirements of subsections (1)(a) and (2)(a) of this section and make the language available on its web site.

Section 1, subpart (8) states the section applies to contracts entered into on or after September 1, 2010, and expires December 31, 2012.

Section 2 states that the expiration of section 1 on December 31, 2012 doesn't affect any request or proceeding instituted prior to December 31, 2012.

The Attorney General's Office (AGO) estimates a workload impact of 0.4 Assistant Attorney General (AAG) and 0.2 Legal Assistant (LA) at a cost of \$84,954 in Fiscal Year (FY) 2011 and each FY thereafter through FY2014. The increase in staffing is to provide legal services for advice, review the Notice of Violations (NOVs), appeals, and litigation.

This bill is assumed effective July 1, 2010.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

Funds are assumed to be Legal Service Revolving Account dollars. Legal services costs incurred by the AGO will be billed through the revolving fund to the client agency.

The client agency is assumed to be LNI.

Please note that these cash receipts represent the AGO authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agencies fiscal note.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The AGO estimates a workload impact of 0.4 AAG and 0.2 LA at a cost of \$84,954 in FY2011 and each FY thereafter through FY2014.

Assumptions

1. We assume LNI pays for the direct litigation costs and OAH costs outside of the AGO legal services billings.
2. We assume the 941 effected companies will yield 57 certified payroll Notice of Violations (NOV).
3. We assume 20 NOV's will be appealed each FY.
4. We assume cases will continue through FY2014.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years		0.6	0.3	0.6	0.3
A-Salaries and Wages		43,001	43,001	86,002	43,001
B-Employee Benefits		12,040	12,040	24,080	12,040
C-Personal Service Contracts					
E-Goods and Services		23,233	23,233	52,464	26,232
G-Travel		1,880	1,880	3,760	1,880
J-Capital Outlays		4,800	4,800	3,600	1,800
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$0	\$84,954	\$84,954	\$169,906	\$84,953

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2010	FY 2011	2009-11	2011-13	2013-15
Assistant Attorney General	86,208		0.4	0.2	0.4	0.2
Legal Assistant II	42,588		0.2	0.1	0.2	0.1
Total FTE's	128,796		0.6	0.3	0.6	0.3

III. C - Expenditures By Program (optional)

Program	FY 2010	FY 2011	2009-11	2011-13	2013-15
Labor and Industries Division (LNI)		84,954	84,954	169,906	84,953
Total \$		84,954	84,954	169,906	84,953

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None.

Individual State Agency Fiscal Note

Bill Number: 2805 HB	Title: Public works/off-site prefab	Agency: 150-Dept of General Administration
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT					
Total \$					

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	0.0	0.3	0.2	0.3	0.3
Account					
Total \$					

Estimated Capital Budget Impact:

	2009-11		2011-13		2013-15	
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	26,386	26,386	26,386	26,386	26,386
Total \$	\$0	\$26,386	\$26,386	\$26,386	\$26,386	\$26,386

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☒ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☒ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Alison Hellberg	Phone:	360-786-7152	Date:	01/19/2010
Agency Preparation:	Becky Guyer	Phone:	360-902-0433	Date:	01/26/2010
Agency Approval:	Fay Bronson	Phone:	360-902-7336	Date:	01/26/2010
OFM Review:	Mike Steenhout	Phone:	360-902-0554	Date:	01/26/2010

Request # 2805-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1 (1) (a) any public work estimated to cost over one million dollars, would require prime contractors, all subcontractors, and their subcontractors and employers who are not required to register as contractors to submit a certified list of any off-site, prefabricated, nonstandard, project-specific items produced under terms of each contract and produced outside of Washington. This list must be submitted to the awarding agency and Labor and Industries within ten days of delivery.

Section 1 (1) (b) requires the awarding agency to report, when aware, incidences of noncompliance to Labor and Industries.

Section 1 (1) (c) requires the contractor or subcontractor to notify the awarding agency upon receipt of the item produced outside of Washington.

Section 1 (2) (a) each contract over one million dollars must contain provision language requiring that all contracts entered into by the prime contractors, all sub- contractors and their subcontractors, and employers who are required to register as contractors for the production of off-site, prefabricated, nonstandard, project-specific items which are produced outside of Washington contain a requirement to produce payroll records.

Section 1 (5) (b) requires GA to develop standard contract language and make it available online.

Section 1 (8) this language will apply to contracts entered into on or after September 1, 2010 and expire on December 31, 2012.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

General Administration assumes costs can be recovered through the project management fees we are appropriated through the capital budget.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years		0.3	0.2	0.3	0.3
A-Salaries and Wages					
B-Employee Benefits					
C-Personal Service Contracts					
E-Goods and Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$0	\$0	\$0	\$0	\$0

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2010	FY 2011	2009-11	2011-13	2013-15
Management Analyst 2	49,368		0.3	0.2	0.3	0.3
Total FTE's	49,368		0.3	0.2	0.3	0.3

Part IV: Capital Budget Impact

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

Construction Estimate	FY 2010	FY 2011	2009-11	2011-13	2013-15
Acquisition					
Construction					
Other		26,386	26,386	52,772	52,772
Total \$		26,386	26,386	52,772	52,772

Although not specifically stated, section 1 (1)(a) of HB 2805 requires the awarding agency to track whether or not the contractor(s) submitted a certified list of any off-site, prefabricated, nonstandard, project-specific items under the terms of the contract for all contracts estimated to cost over one million dollars. The requirement applies to all contractors, subcontractors, and employers not registered as contractors under chapter 18.27 RCW.

Under section 1 (1)(b), the awarding agency General Administration (GA) would be required to report incidences of non-compliance with section 1(a) to Labor and Industries (L&I).

General Administration currently has 81 contracts over one million dollars. GA's contracts manager is estimating the man hours and staffing needed to track and report to Labor and Industries is 1/3 of a Management Analyst 2.

Section 1 (5) (b) GA will develop the standard contract language and post on the web.

Section 1 (8) this language will apply to contracts entered into on or after September 1, 2010 and expire on December 31, 2012. GA assumes this tracking requirement will extend through fiscal year 2015.

Revolving Fund costs (object E) are calculated at 7% of salaries and benefits as reflected in the GA Cost Allocation Rate Program (CARP).

Request # 2805-1

Indirect costs (object T) are calculated at 29% of salaries and benefits as reflected in the GA CARP and consist of agency administrative costs (Director's Office, Human Resources, Finance, and Information Services) and Division/Cost Center administrative costs.

General Administration assumes costs can be recovered through the project management fees we are appropriated through the capital budget.

Calculation detail is included in the attachment: "HB 2805 Backup Calculations."

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

HB 2805 Backup Calculations.xlsx

Annual Costs per FTE by Job Class	Data	Management Analyst 2		
Annual Salary (Object A) ¹		49,368	0	0
Benefits (Object B) ²	31%	15,304	0	0
Revolving Funds (Object E) ³	7%	4,527	0	0
Supplies (Object E) ⁴		0	0	0
Communications (Object E) ⁵		0	0	0
Travel (Object G) ⁶		0	0	0
Agency Indirects (Object T) ⁷	29%	18,755	0	0
Annual Totals per FTE		87,954	0	0

Notes:

- Salaries are per Department of Personnel Salary Schedule for non-represented staff.
- Benefits are calculated at 31% of Salaries.
- Revolving Funds are calculated at 7% of Salaries and Benefits.

Object of Expenditure	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
A Salaries and Wages	14,810	14,810	0	0	0
B Employee Benefits	4,591	4,591	0	0	0
E Goods & Services	1,358	1,358	0	0	0
G Travel	0	0	0	0	0
T Inter-Agency Reimbursements	5,626	5,626	0	0	0
Total Expenditures	26,386	26,386	0	0	0

Full-Time Equivalents	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Management Analyst 2	0.3	0.3	0.0	0.0	0.0
0	0.0	0.0	0.0	0.0	0.0
0	0.0	0.0	0.0	0.0	0.0
Total Expenditures	0.3	0.3	0.0	0.0	0.0

EXPENDITURE SUMMARY BY OBJECT AND FULL TIME EQUIVALENT SUMMARY BY JOB CLASS

Object of Expenditure	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
A Salaries and Wages	14,810	14,810	0	0	0
B Employee Benefits	4,591	4,591	0	0	0
E Goods & Services	1,358	1,358	0	0	0
G Travel	0	0	0	0	0
T Inter-Agency Reimbursements	5,626	5,626	0	0	0
Total Expenditures	26,386	26,386	0	0	0

Full-Time Equivalents	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Management Analyst 2	0.30	0.30	0.00	0.00	0.00
0	0.00	0.00	0.00	0.00	0.00
0	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.30	0.30	0.00	0.00	0.00

HB 2805 Backup Calculations.xlsx

Annual Costs per FTE by Job Class	Data	Management Analyst 2		
Annual Salary (Object A) ¹		49,368	0	0
Benefits (Object B) ²	31%	15,304	0	0
Revolving Funds (Object E) ³	7%	4,527	0	0
Supplies (Object E) ⁴		0	0	0
Communications (Object E) ⁵		0	0	0
Travel (Object G) ⁶		0	0	0
Agency Indirects (Object T) ⁷	29%	18,755	0	0
Annual Totals per FTE		87,954	0	0

Notes:

- Salaries are per Department of Personnel Salary Schedule for non-represented staff.
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Object of Expenditure	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
A Salaries and Wages	0	14,810	14,810	14,810	14,810
B Employee Benefits	0	4,591	4,591	4,591	4,591
E Goods & Services	0	1,358	1,358	1,358	1,358
G Travel	0	0	0	0	0
T Inter-Agency Reimbursements	0	5,626	5,626	5,626	5,626
Total Expenditures	0	26,386	26,386	26,386	26,386

Full-Time Equivalents	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Management Analyst 2	0.0	0.3	0.3	0.3	0.3
0	0.0	0.0	0.0	0.0	0.0
0	0.0	0.0	0.0	0.0	0.0
Total Expenditures	0.0	0.3	0.3	0.3	0.3

EXPENDITURE SUMMARY BY OBJECT AND FULL TIME EQUIVALENT SUMMARY BY JOB CLASS

Object of Expenditure	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
A Salaries and Wages	0	14,810	14,810	14,810	14,810
B Employee Benefits	0	4,591	4,591	4,591	4,591
E Goods & Services	0	1,358	1,358	1,358	1,358
G Travel	0	0	0	0	0
T Inter-Agency Reimbursements	0	5,626	5,626	5,626	5,626
Total Expenditures	0	26,386	26,386	26,386	26,386

Full-Time Equivalents	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Management Analyst 2	0.00	0.30	0.30	0.30	0.30
0	0.00	0.00	0.00	0.00	0.00
0	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.00	0.30	0.30	0.30	0.30

HB 2805 Backup Calculations.xlsx

Annual Costs per FTE by Job Class	Data	Management Analyst 2		
Annual Salary (Object A) ¹		49,368	0	0
Benefits (Object B) ²	31%	15,304	0	0
Revolving Funds (Object E) ³	7%	4,527	0	0
Supplies (Object E) ⁴		0	0	0
Communications (Object E) ⁵		0	0	0
Travel (Object G) ⁶		0	0	0
Agency Indirects (Object T) ⁷	29%	18,755	0	0
Annual Totals per FTE		87,954	0	0

Notes:

- Salaries are per Department of Personnel Salary Schedule for non-represented staff.
- Benefits are calculated at 31% of Salaries.
- Revolving Funds are calculated at 7% of Salaries and Benefits.

Object of Expenditure	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
A Salaries and Wages	0	14,810	14,810	14,810	14,810
B Employee Benefits	0	4,591	4,591	4,591	4,591
E Goods & Services	0	1,358	1,358	1,358	1,358
G Travel	0	0	0	0	0
T Inter-Agency Reimbursements	0	5,626	5,626	5,626	5,626
Total Expenditures	0	26,386	26,386	26,386	26,386

Full-Time Equivalents	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Management Analyst 2	0.0	0.3	0.3	0.3	0.3
0	0.0	0.0	0.0	0.0	0.0
0	0.0	0.0	0.0	0.0	0.0
Total Expenditures	0.0	0.3	0.3	0.3	0.3

EXPENDITURE SUMMARY BY OBJECT AND FULL TIME EQUIVALENT SUMMARY BY JOB CLASS

Object of Expenditure	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
A Salaries and Wages	0	14,810	14,810	14,810	14,810
B Employee Benefits	0	4,591	4,591	4,591	4,591
E Goods & Services	0	1,358	1,358	1,358	1,358
G Travel	0	0	0	0	0
T Inter-Agency Reimbursements	0	5,626	5,626	5,626	5,626
Total Expenditures	0	26,386	26,386	26,386	26,386

Full-Time Equivalents	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Management Analyst 2	0.00	0.30	0.30	0.30	0.30
0	0.00	0.00	0.00	0.00	0.00
0	0.00	0.00	0.00	0.00	0.00
Total Expenditures	0.00	0.30	0.30	0.30	0.30

Individual State Agency Fiscal Note

Bill Number: 2805 HB	Title: Public works/off-site prefab	Agency: 235-Department of Labor and Industries
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	0.0	0.8	0.4	0.6	0.0
Account					
Public Works Administration	0	196,000	196,000	329,000	54,000
Account-State 234-1					
Total \$	0	196,000	196,000	329,000	54,000

Estimated Capital Budget Impact:

	2009-11		2011-13		2013-15	
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	0	0	0	0	0
Total \$	\$0	\$0	\$0	\$0	\$0	\$0

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Alison Hellberg	Phone: 360-786-7152	Date: 01/19/2010
Agency Preparation: Jeri Deuel	Phone: 360-902-6982	Date: 02/03/2010
Agency Approval: Roger Wilson	Phone: 360-902-6698	Date: 02/03/2010
OFM Review: Chris Stanley	Phone: (360) 902-9810	Date: 02/03/2010

Request # 2805 HB-3

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

See Attachment

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

See Attachment

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

See Attachment

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years		0.8	0.4	0.6	
A-Salaries and Wages		40,515	40,515	60,784	
B-Employee Benefits		14,394	14,394	22,110	
C-Personal Service Contracts		13,600	13,600	27,200	6,800
E-Goods and Services		117,837	117,837	217,925	47,200
G-Travel		654	654	981	
J-Capital Outlays		9,000	9,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$0	\$196,000	\$196,000	\$329,000	\$54,000

III. B - Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2010	FY 2011	2009-11	2011-13	2013-15
Industrial Relations Agent 2	51,864		0.8	0.4	0.6	
Total FTE's	51,864		0.8	0.4	0.6	0.0

Part IV: Capital Budget Impact

None

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None

Part II: Explanation

This bill requires contracts for public work estimated to cost over one million dollars entered into by the prime contractor, all subcontractors and their subcontractors, and employers who are not required to register as contractors in Washington to submit:

- A certified list of off-site, prefabricated, nonstandard, project specific items produced for each respective public works contract and produced outside Washington, and
- Certified payroll records on request of an interested party.

This bill has an expiration date of December 31, 2012.

This bill is similar to EHB 1836 in the 2009 session except for the following:

- Adds subsection (1)(c) providing for in-state contractor or subcontractor notice to the awarding agency regarding receipt of any subject item.
- Adds subsection (7) requiring L&I to submit to the appropriate committees of the legislature for review of any data collected under this act.
- Expires December 31, 2012 instead of December 31, 2011.

II. A – Brief Description of What the Measure Does that Has Fiscal Impact

Section 1 (1) – Adds a new section to RCW 39.12, Prevailing Wages on Public Works requiring every contractor, subcontractor, or employer not required to register as a contractor in Washington, who is providing public works project with prefabricated, non-standard items over one million dollars to submit to the awarding agency and Department of Labor and Industries (L&I) the following documentations within ten days of delivery of item:

- A certified list of off-site, prefabricated, nonstandard, project specific items produced for each respective public works contract.

Section 1 (1) (b) – Requires the contract awarding agency to report non-compliance with the requirement to submit the list under subsection (1)(a) to L&I. Failure of the contractor, subcontractor, or employer to comply is subject to penalties under chapter 39.12 RCW. However, no penalty may be imposed for first violation if the contractor files the list within a reasonable time as determined by L&I.

Section 1 (2) (a) – Requires contractors, subcontractors, and employers provide certified copies of payroll records if an interested party files a request with the awarding agency and L&I.

Section 1 (2)(b) - Provides that after a hearing, if the Director of L&I determines a failure to comply with this subsection, the contractor, subcontractor or employer is subject to a civil penalty of one thousand dollars for each second or subsequent failure to comply. The penalty will be deposited into the public works administration account.

Section 1 (3) – Requires the awarding agency to report to L&I any noncompliance with the requirement to submit payroll records of which they become aware. Failure to produce the records constitutes a failure to file under chapter 39.12 RCW and subjects the contractor, subcontractor, or employer to the penalties under RCW 39.12.050.

Section 1 (5) – The required lists, payroll records, and certifications must be submitted on forms made available by L&I.

Section 1 (7) – Upon request L&I must submit any data collected under this act to the appropriate committees of the legislature for review.

Section 1 (8) – This section applies to contracts entered into on or after September 1, 2010, and expires December 31, 2012.

II. B – Cash Receipt Impact

Indeterminate - The provisions for an additional \$1,000 penalty for second and subsequent violations cannot be determined as we cannot anticipate the number of violations issued or penalties waived. The fact that any penalties under the act would apply to out-of-state contractors, for only second and subsequent offenses, makes uncertain any recovery of penalties levied against those violators.

II. C – Expenditures

Based on prior experience with Prevailing Wage cases, non-standard prefabricated items are typically supplied to large projects with costs over one million dollars. In 2009, the Prevailing Wage program processed 1,882 affidavits for large projects. For each instance, two reports, (1) list of items and (2) certified payroll record reports would need to be filed by the affected contractors. The program estimates that 50 percent of those projects would involve contractors, subcontractors, or employers subject to the provisions of the new law, which would yield 941 instances. (1,882 x 50%)

Of the 941 affected contractors, L&I anticipates that they will have to issue Notices of Violation (NOVs) against six percent of those required to file the lists, and against eight percent for those failing to file certified payroll records. The percentages are based upon past experience with issuance of NOVs for contractor non-compliance with certified payroll records requests.

For Fiscal Year 2009 of the 168 payroll requests the program issued, four percent required issuance of an NOV for failure to provide the requested records. Because this legislation will impose new reporting requirements for the lists, the program anticipates there will be a higher non-compliance rate and projects that six percent of the contractors required to provide the identified list will not willingly comply and the program will need to issue 56 NOVs to enforce compliance. (941 x 6%)

Because the contractors required to provide certified payroll records under the act will be out-of-state contractors and the requirement will be new to them, the program expects the level of voluntary compliance will be even lower for certified payroll record requests. It is likely eight

percent of those requests will need to be followed up with issuance of 75 NOVs to enforce compliance. (941 x 8%)

Using the appeal figures from Wage Payment Act citations, L&I expects a 12.67 percent rate of appeal to the list violations. It anticipates a higher percentage of appeal for the certified payroll violations based on historical figures. Between January 2008 to December 2009, 18 NOVs were issued by the program for failure to provide certified payroll records or for false filing of such records. There were three appeals of these 18 NOVs, yielding a 16.67 percent appeal rate. (3 divided by 18= 16.67%) Based on the anticipated number of NOVs stated above, L&I anticipates a combined total of 20 NOVs to be appealed each year. $[(56 \times 12.67\%) + (75 \times 16.67\%) = 19.56 \text{ rounded} = 20]$

Staff Costs

Based on the prior information, the program anticipates that they will be required to issue at least 131 NOVs per year (56 + 75). These are conservative figures, based on prior experience with certified payroll record requests as referenced above. It is anticipated that implementing the provisions of the new section will require the following increases in department workload:

- Development of forms for list reporting;
- Input for reports submitted in paper format;
- Review and approval of forms;
- Filing assistance (online and paper formats);
- Complaint review and processing;
- Issuance of Notices of Violation;
- Assistance with preparation of Director's Orders; and
- Increased violator and debar list maintenance.

In order to implement this legislation, the program will need .75 FTE of an Industrial Relations Agent (IRA) 2 for Fiscal Year 2011 and Fiscal Year 2012. Because this legislation expires on December 31, 2012, we will only need .375 FTE for fiscal year 2013. The workload of an IRA 2 assigned to the field is approximately 32 cases per year. However, the type of complaint

anticipated under this legislation are fairly straight-forward and will not require extensive investigation. The .75 IRA FTE can handle an increased workload of 99 additional cases above the average agent annual caseload, together with filing and follow-up responsibilities.

Attorney General Costs

The department is requesting 0.40 FTE of an Assistant Attorney General. The Attorney General Office will review the Notice of Violations (NOVs).

Additional appeals will likely be attributed to this bill

L&I expects that there will be 941 affected companies required to either file the lists, certified payrolls, or both as identified in this bill. Of those, L&I anticipates that they will have to issue NOVs against six percent of those required to file the lists, and against eight percent for those failing to file certified payroll records. This will yield an expected 56.46 NOVs for list violations and 75.28 NOVs for certified payroll violations.

Using the appeal figures from the WPA citations, L&I expects a 12.67 percent rate of appeal to the list violations. It anticipates a higher percentage of appeal to the certified payroll violations based on historical figures. Between January 2008 to December 2009, 18 NOVs were issued for failure to provide certified payroll records or for false filing of such records. There were 3 appeals of these 18 NOVs, yielding a 16.67 percent appeal rate. Based on the anticipated number of NOVs stated above, L&I anticipates a combined total of 20 NOVs to be appealed each year.

Calculation of .4 AAG FTE upon above assumptions

It is anticipated these appeals will not take the same amount of AAG time as an NOV for failure to pay the appropriate prevailing wages. Therefore, the increased AAG time is based on the AAG time involved litigating WPA cases. Initially the AGO anticipates providing legal advice regarding the interpretation and implementation of this bill. Additionally, it is anticipated there will be 20 appeals per year through December 31, 2012. The AGO projects AGO fiscal impact of .4 AAG FTE. This number may vary depending on the actual rate of appeal from NOVs and the time spent litigating appeals attributable to this bill.

In section 1(8) of the bill it states: “This section applies to contracts entered into on or after September 1, 2010, and expires December 31, 2012.”

Even though the law expires on December 31, 2012, the litigation related to the NOV's issued before the expiration of the law will continue beyond that period. It is anticipated those cases will continue into 2014. Note: it is not clear if L&I is permitted to issue NOV's after December 31, 2012 or whether the law will continue as if in effect for any contracts entered into prior to this date. Prevailing wage contracts may last for several years depending on the project.

Administrative hearing costs are based on the following assumptions:

- Administrative hearing costs for Fiscal Years 2008 and 2009 are averaging \$500 per case.
- It is projected that twenty additional cases will occur as a result of this legislation.
- The total administrative hearing costs will be \$10,000 per fiscal year (20 x \$500 = \$10,000).

The costs for the Attorney General Office are as follows:

FTEs/Classification	FY 2011	FY2012	FY2013	FY 2014
0.4 FTE Assistant Attorney General	\$84,954	\$84,954	\$84,954	\$42,477
Expert Witness Fees	\$13,600	\$13,600	\$13,600	\$6,800
OAH Costs	\$10,000	\$10,000	\$10,000	\$5,000
TOTAL	\$108,554	\$108,554	\$103,554	\$54,277

Other Costs

The other costs needed to implement this legislation are:

- Printing costs for two forms (Certified List of Items Provided and a revised Interested Party Complaint Form with revised instructions).
- Additional postage is needed to mail the 131 Notices of Violation (NOV's).

- Postage costs for mailing Director's Orders upholding those NOV's . Notice required when they are not appealed.

The program sends these items by certified mail to the violator, and by regular mail to the project awarding agency and prime contractor (as applicable).

Printing Costs	\$1,500
Postage Costs	\$1,864
TOTAL	\$3,364

FTE Standard Costs

Permanent and temporary FTE costs include salary and benefits, and the standard costs associated with a new FTE. These standard costs include:

- Leased office space.
- Work unit (desk, file cabinet, etc.) and furniture (if needed).
- Telephone and communication expenses.
- Training.
- Travel.
- Leased PC equipment.

Indirect Costs

The amount included in this fiscal note for indirect is:

Fund Name, Fund #	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015
Public Works -234		\$2,401	\$2,401	\$1,218		

Indirect Allocation Included In Cost Estimates

We include agency wide indirect cost estimates. Only our Administrative Services and Information Services programs receive indirect cost allocation.

Our methodology was updated and funding approved in the 2007-2009 Budget. The biennial average indirect rates for Specialty Compliance Services include:

- 3.3 percent for both fiscal years.

The annual indirect cost is calculated on:

- Requested FTE salary and benefit costs.
- Standard costs associated with new FTEs.
- IT equipment is not included.

We convert the total indirect amount into salary and benefits for partial or full indirect FTEs. Salary and benefits costs are based on a Financial Analyst 2 (Range 44, Step G).

The amount received for the indirect FTE(s) may not be enough to actually hire a new staff person. But, this indirect funding may be used instead to pay current staff for overtime or increasing the use of temporary and seasonal employees.

Depending on the agency's needs, examples of activities provided in Administrative Services and Information Services include:

- Vendor payment and payroll processing.
- Equipment purchase, delivery, inventory, storage and set-up.
- Technical support to employees.
- Desk-top and network support.
- Internal IT systems support.
- Contract and purchasing services.
- Legislative and Public Affairs.
- Library services and public disclosure.
- Personnel and employee services.
- Budget and accounting.
- Facilities management.

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.