

# Multiple Agency Fiscal Note Summary

|                             |                                  |
|-----------------------------|----------------------------------|
| <b>Bill Number:</b> 1601 HB | <b>Title:</b> Worker protections |
|-----------------------------|----------------------------------|

## Estimated Cash Receipts

| Agency Name                       | 2019-21  |                | 2021-23   |                | 2023-25   |                |
|-----------------------------------|--|----------------|-----------|----------------|-----------|----------------|
|                                   | GF- State  | Total          | GF- State | Total          | GF- State | Total          |
| Office of Attorney General        | 0  | 144,000        | 0         | 244,000        | 0         | 244,000        |
| Office of Administrative Hearings | 0  | 245,486        | 0         | 490,972        | 0         | 490,972        |
| Employment Security Department    | Non-zero but indeterminate cost and/or savings. Please see discussion. |                |           |                |           |                |
| <b>Total \$</b>                   | <b>0</b>   | <b>389,486</b> | <b>0</b>  | <b>734,972</b> | <b>0</b>  | <b>734,972</b> |

|                     |  |  |  |  |  |  |
|---------------------|--|--|--|--|--|--|
| Local Gov. Courts   |  |  |  |  |  |  |
| Loc School dist-SPI |  |  |  |  |  |  |
| Local Gov. Other    |  |  |  |  |  |  |
| Local Gov. Total    |  |  |  |  |  |  |

## Estimated Operating Expenditures

| Agency Name                           | 2019-21  |          |                | 2021-23    |          |                | 2023-25    |          |                |
|---------------------------------------|--|----------|----------------|------------|----------|----------------|------------|----------|----------------|
|                                       | FTEs   | GF-State | Total          | FTEs       | GF-State | Total          | FTEs       | GF-State | Total          |
| Administrative Office of the Courts   | .0   | 0        | 0              | .0         | 0        | 0              | .0         | 0        | 0              |
| Office of Attorney General            | .5   | 0        | 144,000        | .9         | 0        | 244,000        | .9         | 0        | 244,000        |
| Office of Administrative Hearings     | 1.0  | 0        | 245,486        | 1.9        | 0        | 490,972        | 1.9        | 0        | 490,972        |
| Board of Industrial Insurance Appeals | Non-zero but indeterminate cost and/or savings. Please see discussion. |          |                |            |          |                |            |          |                |
| Department of Labor and Industries    | Fiscal note not available  |          |                |            |          |                |            |          |                |
| Employment Security Department        | .2   | 0        | 45,768         | .0         | 0        | 0              | .0         | 0        | 0              |
| <b>Total \$</b>                       | <b>1.7</b>   | <b>0</b> | <b>435,254</b> | <b>2.8</b> | <b>0</b> | <b>734,972</b> | <b>2.8</b> | <b>0</b> | <b>734,972</b> |

## Estimated Capital Budget Expenditures

| Agency Name                           | 2019-21                   |          |          | 2021-23    |          |          | 2023-25    |          |          |
|---------------------------------------|---------------------------|----------|----------|------------|----------|----------|------------|----------|----------|
|                                       | FTEs                      | Bonds    | Total    | FTEs       | Bonds    | Total    | FTEs       | Bonds    | Total    |
| Administrative Office of the Courts   | .0                        | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| Office of Attorney General            | .0                        | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| Office of Administrative Hearings     | .0                        | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| Board of Industrial Insurance Appeals | .0                        | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| Department of Labor and Industries    | Fiscal note not available |          |          |            |          |          |            |          |          |
| Employment Security Department        | .0                        | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| <b>Total \$</b>                       | <b>0.0</b>                | <b>0</b> | <b>0</b> | <b>0.0</b> | <b>0</b> | <b>0</b> | <b>0.0</b> | <b>0</b> | <b>0</b> |

Estimated Capital Budget Breakout

NONE

|  |
|--|
|  |
|--|

|                                     |                                 |   |
|-------------------------------------|---------------------------------|---|
| <b>Prepared by:</b> Anna Minor, OFM | <b>Phone:</b><br>(360) 902-0541 | <b>Date Published:</b><br>Preliminary 3/ 6/2019 |
|-------------------------------------|---------------------------------|---|

# Judicial Impact Fiscal Note

|                             |                                  |  |
|-----------------------------|----------------------------------|--|
| <b>Bill Number:</b> 1601 HB | <b>Title:</b> Worker protections | <b>Agency:</b> 055-Administrative Office of the Courts |
|-----------------------------|----------------------------------|--|

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

| Account         | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|-----------------|---------|---------|---------|---------|---------|
| Counties        |         |         |         |         |         |
| Cities          |         |         |         |         |         |
| <b>Total \$</b> |         |         |         |         |         |

### Estimated Expenditures from:

| COUNTY                          | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|---------------------------------|---------|---------|---------|---------|---------|
| County FTE Staff Years          |         |         |         |         |         |
| Account                         |         |         |         |         |         |
| Local - Counties                |         |         |         |         |         |
| Counties Subtotal \$            |         |         |         |         |         |
| CITY                            | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
| City FTE Staff Years            |         |         |         |         |         |
| Account                         |         |         |         |         |         |
| Local - Cities                  |         |         |         |         |         |
| Cities Subtotal \$              |         |         |         |         |         |
| Local Subtotal \$               |         |         |         |         |         |
| Total Estimated Expenditures \$ |         |         |         |         |         |

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

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.

|                                   |                       |                  |
|-----------------------------------|-----------------------|------------------|
| Legislative Contact: Trudes Tango | Phone: 360-786-7384   | Date: 01/24/2019 |
| Agency Preparation: Pam Kelly     | Phone: 360-705-5318   | Date: 02/01/2019 |
| Agency Approval: Ramsey Radwan    | Phone: 360-357-2406   | Date: 02/01/2019 |
| OFM Review: Ramona Nabors         | Phone: (360) 902-0547 | Date: 02/03/2019 |

Request # 1601 HB-1

Part II: Narrative Explanation

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

Please see attached Judicial Impact Note (JIN).

II. B - Cash Receipts Impact

II. C - Expenditures

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

| <i>State</i>    | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|-----------------|---------|---------|---------|---------|---------|
| FTE Staff Years |         |         |         |         |         |
|                 |         |         |         |         |         |
| Total \$        |         |         |         |         |         |

III. B - Expenditure By Object or Purpose (County)

| <i>County</i>   | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|-----------------|---------|---------|---------|---------|---------|
| FTE Staff Years |         |         |         |         |         |
|                 |         |         |         |         |         |
| Total \$        |         |         |         |         |         |

III. C - Expenditure By Object or Purpose (City)

| <i>City</i>     | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|-----------------|---------|---------|---------|---------|---------|
| FTE Staff Years |         |         |         |         |         |
|                 |         |         |         |         |         |
| Total \$        |         |         |         |         |         |

Part IV: Capital Budget Impact

## **Part II: Narrative Explanation**

This bill would create the Universal Worker Protections Act. This bill would further define employer employee relationships and establish penalties to employers that willfully misclassify an employee as an independent contractor. Civil penalties collected would be deposited into the Employee Fair Classification Act account that would be created in Section 10 of this bill.

### **Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts**

Section 5(1) – Would deny an employer the ability to willfully misclassify an employee as independent contractor. The employer would not be able to charge an employee who has been misclassified as an independent contractor any fees such as space rental, services, licenses, repair of equipment. The employer would not be able to require the employee to enter in an agreement that misclassifies them. The employer would not be able to form a corporation, pay or collect fees for use of a corporation or conspire with, aid and abet, or advise an employer with the intent of violating this chapter.

Section 8 – Would allow for individuals aggrieved by a violation in Section 5 to bring suit against persons and or employers responsible for the violations in Superior Court.

### **II.B - Cash Receipt Impact**

None

### **II.C – Expenditures**

Indeterminate, but expected to be minimal. There could be a small increase in cases filed in Superior Courts.

# Individual State Agency Fiscal Note

Revised

|                             |                                  |   |
|-----------------------------|----------------------------------|---|
| <b>Bill Number:</b> 1601 HB | <b>Title:</b> Worker protections | <b>Agency:</b> 100-Office of Attorney General |
|-----------------------------|----------------------------------|---|

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

| ACCOUNT   | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|---|---------|---------|---------|---------|---------|
| Legal Services Revolving Account-State<br>405-1 | 22,000  | 122,000 | 144,000 | 244,000 | 244,000 |
| <b>Total \$</b>                                 | 22,000  | 122,000 | 144,000 | 244,000 | 244,000 |

### Estimated Operating Expenditures from:

|   | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|---|---------|---------|---------|---------|---------|
| FTE Staff Years                                 | 0.2     | 0.9     | 0.5     | 0.9     | 0.9     |
| <b>Account</b>                                  |         |         |         |         |         |
| Legal Services Revolving<br>Account-State 405-1 | 22,000  | 122,000 | 144,000 | 244,000 | 244,000 |
| <b>Total \$</b>                                 | 22,000  | 122,000 | 144,000 | 244,000 | 244,000 |

*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: Trudes Tango | Phone: 360-786-7384   | Date: 01/24/2019 |
| Agency Preparation: Bruce Turcott | Phone: (360) 586-2738 | Date: 02/22/2019 |
| Agency Approval: Nick Klucarich   | Phone: 360-586-3434   | Date: 02/22/2019 |
| OFM Review: Gwen Stamey           | Phone: (360) 902-9810 | Date: 02/25/2019 |

## 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.*

Sec. 1 is a statement of legislative findings.

Sec. 2 is a title—the employee fair classification act.

Sec. 4 defines when an employer-employee relationship exists, general contractor, and subcontractor.

Sec. 5 prohibits misclassification of an employee as an independent contractor.

Sec. 6 authorizes the Department of Labor and Industries (L&I) to investigate and assess penalties for violations (expires January 2, 2021).

Sec. 7 authorizes L&I to investigate and assess penalties for violations (effective January 1, 2021).

Sec. 8 authorizes a private right of action under Sec. 5.

Sec. 9 requires employers to provide independent contractors with notices.

Sec. 10 creates an account.

Sec. 11 authorizes L&I to adopt rules.

Secs. 1-11 are added to a new chapter in title 49 RCW.

#### Prevailing Wage

Sec. 13 adds a new section to chapter 39.12 RCW to define employer-employee relationship.

#### Unemployment Insurance

Sec. 21 adds a new section to chapter 50.04 RCW providing independent contractors are not covered.

Sec. 24 amends RCW 50.12.070 to authorize the Employment Security Department (ESD) to initiate proceedings for improper recordkeeping and recovery of monies.

#### Industrial Insurance

Sec. 28 amends coverage under RCW 51.12.020.

#### Wage Boards

Sec. 30 requires L&I to establish a minimum base rate for intermediary employees of contributing agents.

Sec. 31 requires contributing agents to submit reports to L&I. L&I must adopt rules.

Sec. 32 requires L&I to contract for studies.

Sec. 33 requires L&I to convene wage boards for nonemployee workers.

Sec. 34 requires contributing agents to provide worker representatives with access to intermediary employees.

Sec. 35 provides for wage boards, including representatives of L&I.

Sec. 36 provides duties of wage boards.

Sec. 37 provides for L&I staffing.

Sec. 38 requires L&I to adopt wage board policies.

Sec. 39 requires contributing agents to contribute funds to benefit providers for eligible beneficiaries.

Sec. 40 requires eligible beneficiaries to receive industrial insurance.

Sec. 41 requires L&I to adopt rules for organizations to become benefit providers.

Sec. 42 provides for intermediary employee rights.

Sec. 43 authorizes L&I to adopt rules for delivery of benefits.

Sec. 44 requires L&I to contract for outreach and education.

Sec. 45 prohibits certain requirements of the bill to be considered in determining employment status.

Secs. 29-45 are added to a new chapter in title 49 RCW.

Sec. 49 repeals RCW 39.12.100, 50.04.140, 50.04.145, 51.08.181, and 51.08.195.

## **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.*

Cash receipts are assumed to equal the Legal Service Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is L&I. The AGO will bill the client for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO 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.*

AGO Agency Assumptions:

1. This bill is assumed effective 90 days after the end of the 2019 legislative session.
2. This request does not include cost of living salary increases identified in the Governor's proposed 2019-21 budget.
3. The AGO Licensing & Administrative Law (LAL) division has reviewed this bill and determined it will not significantly increase the division's workload in representing ESD. Sections 21 through 23 change certain definitions but will not likely result in an appreciable increase or decrease in the number of cases. Section 24 is not likely to result in more than a few additional cases, which will be handled using existing resources. New legal services are assumed to be nominal and costs are not included in this request.

Assumptions for the AGO Labor & Industries (LNI) Legal Services for L&I:

1. The AGO will bill L&I for legal services based on the enactment of this bill.
2. L&I assumes 642 new investigations beginning in 2019.
3. L&I has a historical average of 42% of investigations proceeding to either citation or being "otherwise resolved," so 270 cases would proceed to citation because L&I must cite an employer if it identifies a violation (unlike comparable cases which allow L&I to choose not to cite an employer if it is "otherwise resolved").
4. Of 270 cases, 20% are appealed, so approximately 54 cases are assumed to be sent to OAH and will require assignment to an Assistant Attorney General (AAG) for representation.
5. The historical average for cases of similar complexity is 0.1 AAG FTE per 10 cases. LNI estimates a



10-month lag given the time for audits, citations and appeals. As a result, 0.1 AAG is assumed for appeals FY 2020, increased to 0.5 AAG beginning FY 2021 and thereafter.

6. Implementation and ongoing client advice relating to this bill is assumed nominal and costs are not included in this request.

7. LNI assumes the litigation travel costs by summing roundtrip airfare to each region, lodging per diem, and meal per diem. Beginning in FY 2021, LNI assumes a need for \$7,000 per FY for roundtrip airfare to each region, lodging and meal per diem.

8. Total workload impact:

FY 2020: 0.1 AAG and 0.25 Legal Assistant (LA) at a cost of \$22,000.

FY 2021 and in each FY thereafter: 0.5 AAG and 0.25 LA at a cost of \$122,000.

Note: Agency administration support FTEs are included in the tables below, using a Management Analyst 5 as a representative classification.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

| Account         | Account Title                       | Type  | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|-----------------|-------------------------------------|-------|---------|---------|---------|---------|---------|
| 405-1           | Legal Services<br>Revolving Account | State | 22,000  | 122,000 | 144,000 | 244,000 | 244,000 |
| <b>Total \$</b> |                                     |       | 22,000  | 122,000 | 144,000 | 244,000 | 244,000 |

#### III. B - Expenditures by Object Or Purpose

|                            | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|----------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years            | 0.2     | 0.9     | 0.5     | 0.9     | 0.9     |
| A-Salaries and Wages       | 14,000  | 74,000  | 88,000  | 148,000 | 148,000 |
| B-Employee Benefits        | 5,000   | 25,000  | 30,000  | 50,000  | 50,000  |
| E-Goods and Other Services | 3,000   | 14,000  | 17,000  | 28,000  | 28,000  |
| G-Travel                   |         | 8,000   | 8,000   | 16,000  | 16,000  |
| J-Capital Outlays          |         | 1,000   | 1,000   | 2,000   | 2,000   |
| <b>Total \$</b>            | 22,000  | 122,000 | 144,000 | 244,000 | 244,000 |

#### III. C - Operating FTE 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 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|----------------------------|---------|---------|---------|---------|---------|---------|
| Assistant Attorney General | 103,560 | 0.1     | 0.5     | 0.3     | 0.5     | 0.5     |
| Legal Assistant 3          | 51,004  | 0.1     | 0.3     | 0.2     | 0.3     | 0.3     |
| Management Analyst 5       | 77,614  |         | 0.1     | 0.1     | 0.1     | 0.1     |
| <b>Total FTEs</b>          |         | 0.2     | 0.9     | 0.5     | 0.9     | 0.9     |

#### III. D - Expenditures By Program (optional)

| Program                           | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|-----------------------------------|---------|---------|---------|---------|---------|
| Labor & Industries Division (LNI) | 22,000  | 122,000 | 144,000 | 244,000 | 244,000 |
| <b>Total \$</b>                   | 22,000  | 122,000 | 144,000 | 244,000 | 244,000 |

### Part IV: Capital Budget Impact

NONE

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

Revised

|                             |                                  |  |
|-----------------------------|----------------------------------|--|
| <b>Bill Number:</b> 1601 HB | <b>Title:</b> Worker protections | <b>Agency:</b> 110-Office of Administrative Hearings |
|-----------------------------|----------------------------------|--|

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

| ACCOUNT  | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|--|---------|---------|---------|---------|---------|
| Administrative Hearings Revolving<br>Account-State 484-1 |         | 245,486 | 245,486 | 490,972 | 490,972 |
| <b>Total \$</b>  |         | 245,486 | 245,486 | 490,972 | 490,972 |

### Estimated Operating Expenditures from:

|  | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|--|---------|---------|---------|---------|---------|
| FTE Staff Years  | 0.0     | 1.9     | 1.0     | 1.9     | 1.9     |
| <b>Account</b>   |         |         |         |         |         |
| Administrative Hearings Revolving<br>Account-State 484-1 | 0       | 245,486 | 245,486 | 490,972 | 490,972 |
| <b>Total \$</b>  | 0       | 245,486 | 245,486 | 490,972 | 490,972 |

*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: Trudes Tango     | Phone: 360-786-7384   | Date: 01/24/2019 |
| Agency Preparation: Deborah Feinstein | Phone: 360-407-2717   | Date: 02/08/2019 |
| Agency Approval: Deborah Feinstein    | Phone: 360-407-2717   | Date: 02/08/2019 |
| OFM Review: Bryan Way                 | Phone: (360) 902-0650 | Date: 02/14/2019 |

## 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.*

HB 1601 creates the Employee Fair Classification Act under which employers may be held accountable for improperly classifying their workers as nonemployees, including independent contractors. This Act authorizes the Department of Labor and Industries to investigate employers' classifications, and penalize them if violations are found. The Department may also order reinstatement and certain compensatory damages. This Act requires employers to issue and post prescribed disclosures in the event employers use independent contractors. This Act includes administrative appeal rights for employers penalized for misclassification, as well as for employers determined to be subject to the Department's collection efforts.

Under this Act, the Employment Security Department is authorized to hold employers accountable for failing to keep proper records on misclassified workers, and failing to properly contribute to the Department for misclassified workers. The Department of Labor and Industries will refer violations to ESD for investigation.

### 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.*

As a central service agency, OAH bills referring agencies for its costs and collects the revenue into the Administrative Hearings Revolving Account. Cash receipts are assumed to equal costs. OAH will bill the Department of Labor and Industries for the costs related to this proposed legislation.

These cash receipts represent the OAH's authority to bill and are not a direct appropriation to OAH. Appropriation authority is necessary in OAH's 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.*

The Office of Administrative Hearings (OAH) will hear appeals on the classification of employees versus independent contractors. The Attorney General's Office estimates that 54 additional appeals per year would be heard by the Office of Administrative Hearings beginning July 1, 2020. Based on OAH's experience with current wage payment appeals, each appeal will take about 30 hours of line administrative law judge time (ALJ) plus associated supervision, support staff and administrative time. The ALJ time includes prehearing conference, hearing, order writing, etc.

OAH anticipates that there will also be costs for increased appeals from the Employment Security Department (ESD) due to increased unemployment claims. ESD estimates the increase in unemployment claims to be minimal and as such the increase in appeals to OAH is likely to be minimal as well.

#### Workforce Assumptions:

- \* Ratio of 1 line ALJ to .15 Senior ALJ to 0.5 legal support to 0.25 administrative support.
- \* Average ALJ salary for line ALJ and senior ALJ used
- \* Legal support staff assumed to be Legal Assistant 2 - range 40 step L.
- \* Administrative support used a representative class of Management Analyst 4 - range 58 step L.

\* Benefit rates were analyzed by job class using SPS data.

\* Goods and services, travel and on-going capital outlays were projected based on historical data for each of the job classes.

Total Workload Impact:

FY 2020: None.

FY 2021 and each FY thereafter: 1.02 Administrative Law Judge at a cost of \$144,942; 0.15 Senior Administrative Law Judge at a cost of \$24,713; 0.51 Legal Assistant 2 at a cost of \$45,223. Agency administrative support is included using 0.26 FTE of a Management Analyst 4 as a representative at a cost of \$30,608. Total cost: \$245,486.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

| Account         | Account Title                             | Type  | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|-----------------|---|-------|---------|---------|---------|---------|---------|
| 484-1           | Administrative Hearings Revolving Account | State | 0       | 245,486 | 245,486 | 490,972 | 490,972 |
| <b>Total \$</b> |   |       | 0       | 245,486 | 245,486 | 490,972 | 490,972 |

#### III. B - Expenditures by Object Or Purpose

|                                      | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|--------------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years                      |         | 1.9     | 1.0     | 1.9     | 1.9     |
| A-Salaries and Wages                 |         | 149,790 | 149,790 | 299,580 | 299,580 |
| B-Employee Benefits                  |         | 52,820  | 52,820  | 105,640 | 105,640 |
| C-Professional Service Contracts     |         |         |         |         |         |
| E-Goods and Other Services           |         | 38,760  | 38,760  | 77,520  | 77,520  |
| G-Travel                             |         | 1,790   | 1,790   | 3,580   | 3,580   |
| J-Capital Outlays                    |         | 2,326   | 2,326   | 4,652   | 4,652   |
| M-Inter Agency/Fund Transfers        |         |         |         |         |         |
| N-Grants, Benefits & Client Services |         |         |         |         |         |
| P-Debt Service                       |         |         |         |         |         |
| S-Interagency Reimbursements         |         |         |         |         |         |
| T-Intra-Agency Reimbursements        |         |         |         |         |         |
| 9-                                   |         |         |         |         |         |
| <b>Total \$</b>                      | 0       | 245,486 | 245,486 | 490,972 | 490,972 |

**III. C - Operating FTE 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 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|---------------------------------|---------|---------|---------|---------|---------|---------|
| Administrative Law Judge        | 90,000  |         | 1.0     | 0.5     | 1.0     | 1.0     |
| Legal Assistant 2               | 46,188  |         | 0.5     | 0.3     | 0.5     | 0.5     |
| Management Analyst 4            | 72,036  |         | 0.3     | 0.1     | 0.3     | 0.3     |
| Senior Administrative Law Judge | 105,000 |         | 0.2     | 0.1     | 0.2     | 0.2     |
| <b>Total FTEs</b>               |         |         | 1.9     | 1.0     | 1.9     | 1.9     |

### Part IV: Capital Budget Impact

NONE

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

|                             |                                  |  |
|-----------------------------|----------------------------------|--|
| <b>Bill Number:</b> 1601 HB | <b>Title:</b> Worker protections | <b>Agency:</b> 190-Board of Industrial Insurance Appeals |
|-----------------------------|----------------------------------|--|

## Part I: Estimates

☒ No Fiscal Impact

Estimated Operating Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

*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: Trudes Tango | Phone: 360-786-7384   | Date: 01/24/2019 |
| Agency Preparation: William Chase | Phone: 360-753-2790   | Date: 02/28/2019 |
| Agency Approval: Bob Liston       | Phone: 360-753-6823   | Date: 02/28/2019 |
| OFM Review: Anna Minor            | Phone: (360) 902-0541 | Date: 03/01/2019 |

## 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.*

HB 1601 Creating the universal worker protections act.

This proposed legislation establishes the Employee Fair Classification Act, which creates new provisions prohibiting the misclassification of employees as independent contractors and institutes remedies, including civil penalties and damages.

Sections 28 through 45 change certain provisions of RCW 51, the Industrial Insurance Act.

This bill is assumed effective 90 days after the end of the 2019 legislative session.

### 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.*

### 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.*

Expenditures

Appeals from the new Employee Fair Classification Act will go to the Office of Administrative Hearings, not the Board of Industrial Insurance Appeals (BIIA). The changes to RCW 51 will create new, appealable issues, which will go to the BIIA, however we cannot reasonably estimate the impact of this legislation on appeals, therefore the impact of this bill is indeterminate.

## Part III: Expenditure Detail

## 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.*



# Individual State Agency Fiscal Note

|                             |                                  |   |
|-----------------------------|----------------------------------|---|
| <b>Bill Number:</b> 1601 HB | <b>Title:</b> Worker protections | <b>Agency:</b> 540-Employment Security Department |
|-----------------------------|----------------------------------|---|

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

### Estimated Operating Expenditures from:

|  | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|--|---------|---------|---------|---------|---------|
| FTE Staff Years  | 0.3     | 0.0     | 0.2     | 0.0     | 0.0     |
| <b>Account</b>   |         |         |         |         |         |
| Unemployment Compensation<br>Administration Account-Federal<br>119-2 | 45,768  | 0       | 45,768  | 0       | 0       |
| <b>Total \$</b>  | 45,768  | 0       | 45,768  | 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: Trudes Tango | Phone: 360-786-7384   | Date: 01/24/2019 |
| Agency Preparation: Leah Snow     | Phone: (360) 902-9203 | Date: 01/29/2019 |
| Agency Approval: Sondra Walsh     | Phone: 360/902-0023   | Date: 01/29/2019 |
| OFM Review: Anna Minor            | Phone: (360) 902-0541 | Date: 02/03/2019 |

## 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.*

The bill has an indeterminate impact on the trust fund. The definition of independent contract and employment would be adjusted with the intention of expanding coverage, which could lead to more persons being reported than before. Plus there is the potential for additional referrals from Labor and Industries (LNI) and the courts, but Employment Security Department (ESD) already receives referrals from Labor and Industries, so the increase is likely not significant or substantial.

The bill will have a minor impact on operating expenses to alter policy manuals, train staff and update ESD's websites on the law change, as follows:

Update policy manuals: 1 TPS 1 10 hours - research, prepare materials; 1 TPS 2 - 3 hours - review materials, attend briefing on bill - Sections 3, 21, 22, 24 and 49.

Train staff (minimal): 1 PC3 5 hours preparation - attend briefing on bill, review manual changes, prepare materials; training of staff: 1 PC3 3 hours to do 3 separate trainings. Sections 3, 21, 22, 24 and 49.

Communications (minimal): 1 CC5 6 hours - review manual, prepare statement for website, coordinate language with policy; TPS 2 2 hours, reviewing, editing statement for website.

Rulemaking - 1 MA5 560 hours - minimal rulemaking required - fixing pointers. Sections 3, 21, 22, 24 and 49.

We may also need to communicate the law change to the public, but those expenses could be shared with Labor and Industries (LNI), who is the major agency put in charge of the new program the bill creates.

### 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.*

Indeterminate cash receipt impact.

### 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 bill has an indeterminate impact on the trust fund. The definition of independent contract and employment would be adjusted with the intention of expanding coverage, which could lead to more persons being reported than before. Plus there is the potential for additional referrals from Labor and Industries and the courts, but Employment Security Department (ESD) already receives referrals from Labor and Industries (LNI), so the increase is likely not significant or substantial.

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Train staff (minimal): 1 PC3 5 hours preparation - attend briefing on bill, review manual changes, prepare materials; training of staff: 1 PC3 3 hours to do 3 separate trainings. Sections 3, 21, 22, 24 and 49.

Communications (minimal): 1 CC5 6 hours - review manual, prepare statement for website, coordinate language with policy; TPS 2 2 hours, reviewing, editing statement for website.

Rulemaking - 1 MA5 560 hours - minimal rulemaking required - fixing pointers. Sections 3, 21, 22, 24 and 49.

We may also need to communicate the law change to the public, but those expenses could be shared with Labor and Industries (LNI), who is the major agency put in charge of the new program the bill creates.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

| Account         | Account Title                                    | Type    | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|-----------------|--|---------|---------|---------|---------|---------|---------|
| 119-2           | Unemployment Compensation Administration Account | Federal | 45,768  | 0       | 45,768  | 0       | 0       |
| <b>Total \$</b> |  |         | 45,768  | 0       | 45,768  | 0       | 0       |

### III. B - Expenditures by Object Or Purpose

|                                      | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|--------------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years                      | 0.3     |         | 0.2     |         |         |
| A-Salaries and Wages                 | 22,789  |         | 22,789  |         |         |
| B-Employee Benefits                  | 9,116   |         | 9,116   |         |         |
| C-Professional Service Contracts     |         |         |         |         |         |
| E-Goods and Other Services           | 5,306   |         | 5,306   |         |         |
| 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        | 8,557   |         | 8,557   |         |         |
| 9-                                   |         |         |         |         |         |
| <b>Total \$</b>                      | 45,768  | 0       | 45,768  | 0       | 0       |

### III. C - Operating FTE 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 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|---|--------|---------|---------|---------|---------|---------|
| Communications Consultant 5               | 81,934 | 0.0     |         | 0.0     |         |         |
| Employment Security Program Coordinator 3 | 67,251 | 0.0     |         | 0.0     |         |         |
| Management Analyst 5                      | 79,944 | 0.3     |         | 0.1     |         |         |
| Tax Policy Specialist 1                   | 67,251 | 0.0     |         | 0.0     |         |         |
| Tax Policy Specialist 2                   | 79,944 | 0.0     |         | 0.0     |         |         |
| <b>Total FTEs</b>                         |        | 0.3     |         | 0.2     |         | 0.0     |

## Part IV: Capital Budget Impact

NONE

N/A

## 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.*

Minimal rulemaking to update the section that points to a current independent contractor statute: i.e. WAC 192-100-510.  
Minimal rulemaking required to fix pointers: Sections 3, 21, 22, 24 and 49.