

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5717 S SB	<b>Title:</b> Employee scheduling
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## 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	130,000	0	216,000	0	216,000
Office of Administrative Hearings	0	144,403	0	288,806	0	288,806
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.					
<b>Total \$</b>	<b>0</b>	<b>274,403</b>	<b>0</b>	<b>504,806</b>	<b>0</b>	<b>504,806</b>

Local Gov. Courts	No fiscal impact					
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	130,000	.8	0	216,000	.8	0	216,000
Office of Administrative Hearings	.6	0	144,403	1.1	0	288,806	1.1	0	288,806
Department of Labor and Industries	5.7	0	2,088,000	5.1	0	1,558,000	5.1	0	1,558,000
<b>Total \$</b>	<b>6.8</b>	<b>0</b>	<b>2,362,403</b>	<b>7.0</b>	<b>0</b>	<b>2,062,806</b>	<b>7.0</b>	<b>0</b>	<b>2,062,806</b>

Local Gov. Courts	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

## 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
Department of Labor and Industries	.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

Prepared by: Anna Minor, OFM	Phone: (360) 902-0541	Date Published: Final 3/21/2019
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# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5717 S SB	<b>Title:</b> Employee scheduling	<b>Agency:</b> 055-Administrative Office of the Courts
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## Part I: Estimates



No Fiscal Impact

*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	Sarian Scott	Phone: 360-786-7729	Date: 02/22/2019
Agency Preparation:	Pam Kelly	Phone: 360-705-5318	Date: 02/27/2019
Agency Approval:	Ramsey Radwan	Phone: 360-357-2406	Date: 02/27/2019
OFM Review:	Ramona Nabors	Phone: (360) 902-0547	Date: 03/04/2019

Request # 5717 SSB-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**

**Part IV: Capital Budget Impact**

## **Part II: Narrative Explanation**

This bill would revise labor regulations regarding employer and employee scheduling. It would require an employer to provide a new employee with a good faith estimate of the employee's work schedule. It would require employer compensation to each change to the employee's written work schedule and when additional hours become available the employer would be required to offer the hours to existing employees before hiring new ones.

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

Section 15 – Would allow for an employee to bring civil action against an employer for violation of this chapter for; (a) unpaid compensation, (b) statutory damages of up to twice the unpaid compensation, (c) interest of the one percent per month on all compensation owed, (d) Costs and reasonable attorneys' fees.

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

None

### **II.C – Expenditures**

No fiscal impact.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5717 S SB	<b>Title:</b> Employee scheduling	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

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No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2020	FY 2021	2019-21	2021-23	2023-25
Legal Services Revolving Account-State 405-1	22,000	108,000	130,000	216,000	216,000
<b>Total \$</b>	22,000	108,000	130,000	216,000	216,000

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.2	0.8	0.5	0.8	0.8
<b>Account</b>					
Legal Services Revolving Account-State 405-1	22,000	108,000	130,000	216,000	216,000
<b>Total \$</b>	22,000	108,000	130,000	216,000	216,000

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: Sarian Scott	Phone: 360-786-7729	Date: 02/22/2019
Agency Preparation: Stacia Hollar	Phone: (360) 664-0865	Date: 02/26/2019
Agency Approval: Nick Klucarich	Phone: 360-586-3434	Date: 02/26/2019
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 02/28/2019

## 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.*

Section 1 contains definitions.

Section 2 requires the employer to provide a good faith estimate of the work schedule at the time of hire.

Section 3 provides that a covered employee has the right during employment to identify work schedule limitations and request preferences.

Section 4 establishes the rest period between shifts.

Section 5 provides for at least 14 days' notice of work schedules.

Section 6 requires the employer to provide timely notice of work schedule changes and allows the employee to decline.

Section 7 provides for compensation for work changes not made in accordance with Section 6.

Section 8 prohibits intentional under scheduling.

Section 9 addresses the process for providing access to shifts as they become available.

Section 10 addresses the required record keeping under this chapter.

Section 11 prohibits retaliation against employees who file complaints under this chapter.

Section 12 requires inclusion of information about these provisions in employee posters.

Section 13 requires the Department of Labor & Industries (L&I) to adopt rules and provide technical assistance.

Section 14 provides for administrative enforcement by L&I.

Section 15 provides for a private right of action.

Section 16 addresses whistleblower enforcement.

Section 17 allows employers to provide more generous scheduling policies.

Section 18 addresses conflict with federal law.

Section 19 is a severability clause.

Section 20 codifies Sections 1-18 in RCW 49.

### 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 all clients 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 agencies' 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 the Employment Security Department. The deletion of Section 17 results in no need for ESD legal services. 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. Rulemaking consultation, handling appeals, providing client advice. L&I anticipates there will be 161 citations issued if this bill is passed into law as currently drafted. Historically there is a 20% appeal rate to Wage Payment Act (WPA) citations. Applying that figure here yields an anticipated 32 appeals that will be handled through the AGO. Using figures based on current Assistant Attorney General (AAG) FTEs for WPA work and including additional advice, LNI assumes this will require:

A. FY 2020: 0.1 AAG.

B. FY 2021 and in each FY thereafter: 0.4 AAG and 0.1 Paralegal (PL).

3. Direct litigation costs for travel per appeals. Costs are assumed by summing roundtrip airfare to each region, lodging per diem, and meal per diem. \$3,828 is assumed beginning in FY 2021 for roundtrip airfare to each region, lodging per diem, and meal per diem.

4. Total workload impact:

FY 2020: 0.1 AAG and 0.05 Legal Assistant (LA) at a cost of \$22,000.



FY 2021 and in each FY thereafter: 0.4 AAG, 0.2 LA and 0.1 PL at a cost of \$108,000 (this includes direct litigation costs of \$3,828 per FY).

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 Revolving Account	State	22,000	108,000	130,000	216,000	216,000
<b>Total \$</b>			22,000	108,000	130,000	216,000	216,000

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

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.2	0.8	0.5	0.8	0.8
A-Salaries and Wages	14,000	66,000	80,000	132,000	132,000
B-Employee Benefits	5,000	23,000	28,000	46,000	46,000
E-Goods and Other Services	3,000	13,000	16,000	26,000	26,000
G-Travel		5,000	5,000	10,000	10,000
J-Capital Outlays		1,000	1,000	2,000	2,000
<b>Total \$</b>	22,000	108,000	130,000	216,000	216,000

#### 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	0.4	0.3	0.4	0.4
Legal Assistant 3	51,004	0.1	0.2	0.1	0.2	0.2
Management Analyst 5	77,614		0.1	0.1	0.1	0.1
Paralegal 2	65,288		0.1	0.1	0.1	0.1
<b>Total FTEs</b>		0.2	0.8	0.5	0.8	0.8

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

Program	FY 2020	FY 2021	2019-21	2021-23	2023-25
Labor & Industries Division (LNI)	22,000	108,000	130,000	216,000	216,000
<b>Total \$</b>	22,000	108,000	130,000	216,000	216,000

### 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> 5717 S SB	<b>Title:</b> Employee scheduling	<b>Agency:</b> 110-Office of Administrative Hearings
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## Part I: Estimates

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No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2020	FY 2021	2019-21	2021-23	2023-25
Administrative Hearings Revolving Account-State 484-1		144,403	144,403	288,806	288,806
<b>Total \$</b>		144,403	144,403	288,806	288,806

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	1.1	0.6	1.1	1.1
<b>Account</b>					
Administrative Hearings Revolving Account-State 484-1	0	144,403	144,403	288,806	288,806
<b>Total \$</b>	0	144,403	144,403	288,806	288,806

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: Sarian Scott	Phone: 360-786-7729	Date: 02/22/2019
Agency Preparation: Angie Brown	Phone: 360-407-2719	Date: 02/28/2019
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 02/28/2019
OFM Review: Bryan Way	Phone: (360) 902-0650	Date: 02/28/2019

## 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 proposed legislation makes significant additions to the wage payment law which would impact the appeal processes at the Office of Administrative Hearings.

This proposed legislation creates a new chapter in Title 49. Under this new chapter, employers in the food service, hospitality, or retail industries who employ at least 250 employees worldwide will have added responsibilities relative to changing employee schedules. These responsibilities include:

- \*Giving employees at the time of hire a good faith estimate of their work schedule, in English and their primary language, and updating this once each year (Section 2);
- \*Initiating an interactive process with employees regarding significant schedule changes, and “if applicable”, giving a bona fide business reason for them (Section 2)
- \*Not scheduling employees less than 10 hours after the end of their previous shift unless the employees request this, or give written consent (Section 4)
- \*Providing employees a written work schedule at least 14 days in advance, in English and all employees’ primary languages, and posting the same (Section 5)
- \*Paying employees for each late, employer-initiated change to employees’ schedule (additional exceptions apply) (Section 7)
- \*Offering additional work hours to existing employees before hiring or using temporary workers, and posting the available additional work hours for at least five consecutive calendar days (Section 9)
- \*Additional recordkeeping relative to this new chapter, with rebuttable presumption against the employer if records not properly kept (Section 10)

In addition, employees have the right to ask to not be scheduled for certain shifts, and to identify their preferred hours and locations of work. If the request is due to a “major life event”, then the employer must engage in an “interactive process” with the requester, give him/her a written response, and grant the request unless there is a bona fide business reason not to. If the request is not due to a “major life event”, the employer must still engage in the interactive process, but may deny the request for any lawful reason. (Section 3)

If the employer wants to change the schedule after issuing advance notice of it, the employer must give timely notice to the employee, and the employee may decline. If the employee wants to change the schedule after receiving advance notice of it, the employee must give reasonable notice to the employer, or notice as soon as possible if the reason was unforeseeable. The employee must also comply with the employer’s reasonable call-in procedures and notice requirements. (Section 6)

This new chapter contains an anti-retaliation provision, as well as various compensatory damages, costs, and penalties for violations of the chapter. (Sections 11, 14) It calls for data reporting to L&I, and prohibits a pattern/practice of systemic under-scheduling. (Section 8)

### 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 Department of Labor and Industries and the Office of the Attorney General anticipate 161 citations per year as a result of this legislation. Historically there is a 20% appeal rates to Wage Payment resulting in 32 new appeals to the Office of Administrative Hearings (OAH) beginning July 1, 2019.

Based on OAH's experience with current wage payment appeals, each appeal will take approximately 30 hours of line administrative law judge time (ALJ) including prehearing conference, hearing, order writing, etc.

### 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 2021 and each FY thereafter: .60 Administrative Law Judge at a cost of \$85,260; 0.09 Senior Administrative Law Judge at a cost of \$14,537; 0.30 Legal Assistant 2 at a cost of \$26,602. Agency administrative support is included using 0.15 FTE of a Management Analyst 4 as a representative at a cost of \$18,004. Total cost: \$144,403.

## 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	144,403	144,403	288,806	288,806
<b>Total \$</b>			0	144,403	144,403	288,806	288,806

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

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years		1.1	0.6	1.1	1.1
A-Salaries and Wages		88,111	88,111	176,222	176,222
B-Employee Benefits		31,071	31,071	62,142	62,142
C-Professional Service Contracts					
E-Goods and Other Services		22,800	22,800	45,600	45,600
G-Travel		1,053	1,053	2,106	2,106
J-Capital Outlays		1,368	1,368	2,736	2,736
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	144,403	144,403	288,806	288,806

**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		0.6	0.3	0.6	0.6
Legal Assistant 2	46,188		0.3	0.2	0.3	0.3
Management Analyst 4	72,036		0.2	0.1	0.2	0.2
Senior Administrative Law Judge	105,000		0.1	0.1	0.1	0.1
<b>Total FTEs</b>			1.1	0.6	1.1	1.1

**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> 5717 S SB	<b>Title:</b> Employee scheduling	<b>Agency:</b> 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 Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	6.2	5.1	5.7	5.1	5.1
<b>Account</b>					
Accident Account-State 608-1	1,113,000	662,000	1,775,000	1,324,000	1,324,000
Medical Aid Account-State 609-1	196,000	117,000	313,000	234,000	234,000
<b>Total \$</b>	1,309,000	779,000	2,088,000	1,558,000	1,558,000

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:

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- ☐ 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: Sarian Scott	Phone: 360-786-7729	Date: 02/22/2019
Agency Preparation: Donald Jenson Jr	Phone: 360-902-6981	Date: 02/27/2019
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/27/2019
OFM Review: Anna Minor	Phone: (360) 902-0541	Date: 03/18/2019

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.

See attached.

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 attached.

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 attached.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
608-1	Accident Account	State	1,113,000	662,000	1,775,000	1,324,000	1,324,000
609-1	Medical Aid Account	State	196,000	117,000	313,000	234,000	234,000
Total \$			1,309,000	779,000	2,088,000	1,558,000	1,558,000

III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	6.2	5.1	5.7	5.1	5.1
A-Salaries and Wages	394,000	312,000	706,000	624,000	624,000
B-Employee Benefits	153,000	125,000	278,000	250,000	250,000
C-Professional Service Contracts	106,000		106,000		
E-Goods and Other Services	589,000	335,000	924,000	670,000	670,000
G-Travel	7,000	7,000	14,000	14,000	14,000
J-Capital Outlays	60,000		60,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	1,309,000	779,000	2,088,000	1,558,000	1,558,000

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
Adminstrative Regulations Analyst 4	77,611	1.0		0.5		
Customer Service Specialist 2	40,896	0.3	0.3	0.3	0.3	0.3
Fiscal Analyst 5	60,633	0.4	0.3	0.4	0.3	0.3
Industrial Relations Agent 2	60,633	3.5	3.5	3.5	3.5	3.5
Industrial Relations Agent 4	68,572	1.0	1.0	1.0	1.0	1.0
Total FTEs		6.2	5.1	5.7	5.1	5.1

**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.*

See attached.



## Part II: Explanation

This bill relates to secure scheduling; enacting and amending RCW 50.20.050; adding a new chapter to RCW 49; and prescribing penalties.

SSB 5717 is different from SB 5717 in that it:

- Limits the bill to certain employers in food service, hospitality, or retail establishments that employ 250 or more employees worldwide.

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

**Section 1** adds a new section to RCW 49, providing definitions that apply throughout this section. Included in the definitions are:

- “Department” means the Department of Labor and Industries (L&I).
- “Director” means the director of L&I.

**Sections 2 through 11** provide certain employees with secure scheduling. These sections provide requirements for a good faith estimate of work schedules, work schedule input, rest between shifts, advance notice of work schedules, notice of work schedule changes, compensation for work schedule changes, underscheduling, access to hours for existing employees, recordkeeping, and retaliation.

**Section 8** stipulates that pursuant to rules adopted by L&I, an employer shall periodically provide L&I with aggregate data on discrepancies between scheduled work hours and hours actually worked.

**Section 12** requires that L&I include notice of the provisions of this chapter in the next reprint of employment posters.

**Section 13** requires that L&I adopt rules to implement this chapter. It also requires that L&I provide technical assistance to employers regarding compliance with this chapter.

**Section 14** stipulates that upon complaint by an employee, L&I must investigate to determine if there has been compliance with this chapter and the rules adopted under this chapter. It gives L&I the authority to issue a civil penalty, payable to L&I, of not less than \$1,000 per violation of this chapter, or ten percent of the total amount of unpaid wages, whichever is greater. The penalties must be deposited in the supplemental pension fund.

**Section 16** defines L&I's role in investigating whistleblower complaints.

**Section 22** states that sections 1 through 19 of this bill shall be a new chapter in RCW 49.

## **II. B – Cash Receipt Impact**

Section 14 of this bill allows L&I to issue penalties of not less than \$1,000 per violation, or ten percent of the total amount of unpaid wages, whichever is greater. L&I does not currently have access to unpaid wage data the cash receipt estimate is **indeterminate**.

At a minimum, using \$1,000 per violation L&I estimates an annual increase to revenue in the Supplemental Pension Fund, fund 881, as follows:

- 849 complaints are anticipated. (see expenditure assumptions)
- Based on wage complaint data, 19 percent of complaints will result in a violation.
- 161 violations will be issued (849 complaints x 0.19 violation rate = 161).
- \$161,000 in penalties will be assessed annually. (161 violations x \$1,000 penalty = \$161,000)
- Historical collection rate on violations is 40 percent.
- \$64,400 annual increase in cash receipts is expected beginning in fiscal year 2020. (\$161,000 assessed x 0.40 collection rate = \$64,400).

## **II. C – Expenditures**

This bill increases expenditures to the Accident Fund, fund 608 and the Medical Aid Fund, fund 609. The following assumptions were used to estimate the resources required to implement this bill.

## Staffing

- 3.5 FTE Industrial Relations Agent 2 (IRA2), permanent, beginning July 1, 2019. Duties include investigating complaints to this chapter, recommend assessments and penalties, as required in Section 14 of the bill. The following assumptions were used:
  - 424,725 employees are impacted by this bill.
    - According to Employment Security Department data, there are 690,609 employees in the affected industries statewide.
    - The bill applies to employers with more than 250 employees worldwide. 61.5 percent of employees work for businesses that are not considered small businesses.
    - Therefore, 424,725 employees are impacted by this bill.  $(690,609 \times 0.615 = 424,724.5)$
  - The complaint rate for wage payment act complaints is 0.2 percent  $(6,200 \text{ annual complaints} / 3.2 \text{ million workers} = 0.002)$ .
  - 849 complaint investigations are anticipated annually.  $(424,725 \text{ employees} \times .002 \text{ complaint rate} = 849.4)$
  - A standard IRA2 wage agent will investigate about 240 complaints per year.
  - This results in 3.5 FTE needed.  $(849 \text{ complaints} / 240 \text{ complaints per IRA2} = 3.5)$ .
- 1.0 FTE Industrial Relations Agent 4 (IRA4), permanent, beginning July 1, 2019. Duties include providing technical assistance to employers, as required in Section 13 of the bill. This IRA4 will also serve as the supervisor of the team of IRA2s listed above.
- 1.0 FTE Administrative Regulations Analyst 4 (ARA4), temporary, from July 1, 2019 through June 30, 2020. This position will be devoted to the rule making process required in Section 13 of the bill. This includes policy development, attorney general and stakeholder coordination. Rule making is anticipated to be complex due to the new employer requirements and new employee rights.

- 0.3 FTE Customer Service Specialist 2 (CSS2), permanent, beginning July 1, 2019. Duties include answering phone inquiries from employers and employees impacted by the bill. Although the bill only applies to a limited number of employers and employees, it's anticipated that calls could come from the 690,609 employees in the affected industries statewide. This represents 21 percent of the total number of employees statewide. An increase in phone calls is anticipated.

#### **Information Technology New Applications/Systems**

\$106,208 is needed for 768 contractor hours to incorporate changes to multiple existing L&I computer applications, to occur during fiscal year 2020. This includes changes to the Accounts Receivable Collections (ARC), and Pay ARC systems.

The expenditure calculations in this fiscal note includes changes to the hourly rates for contract technology based on an annual analysis completed by L&I. These changes include rates based on expert skill level and an inflationary factor in all categories.

#### **Rule making**

\$10,000 is needed for four rule making hearings to occur during fiscal year 2020. The average cost of one rule making hearing is \$2,500. Rule making is required in Section 13 of the bill.

#### **Printing and mailing costs**

- Section 12 – To notify all employers of the new law change, L&I will print and mail posters.
  - Printing 225,000 posters at \$0.192 each is \$43,200 to be spent in fiscal year 2020. L&I will mail 183,000 and keep 42,000 on reserve.
  - Mailing 183,000 posters at \$1.50 each is \$274,500 to be spent in fiscal year 2020.

#### **Marketing and outreach**

\$109,200 for advertising and outreach will be necessary to effectively implement this bill. This bill creates new requirements for employers, and new rights for employees. When Initiative 1433 passed, L&I budgeted \$520,000 for marketing and outreach to reach all employees in the state. Questions about impact of this bill are anticipated from the 690,609 employees in the

affected industries statewide. This represents 21 percent of the total number of employees statewide. Therefore, it's estimated that 21 percent of the Initiative 1433 marketing and outreach budget is necessary. ( $\$520,000 \times 0.21 = \$109,200$ )

#### **Attorney General-Legal Services**

Providing legal advice on rule making and appeals will require an additional 0.1 FTE Assistant Attorney General (AAG), 0.05 FTE Legal Assistant (LA), at a cost of \$22,000 for fiscal year 2020; and 0.4 FTE AAG, 0.20 FTE LA, and 0.10 FTE Paralegal, at a cost of \$108,000 annually for each subsequent fiscal year.

#### **Administrative Hearings**

\$144,403 annually is needed, beginning fiscal year 2021, for administrative hearings at the Office of Administrative Hearings. This estimate is based on 32 appeals per year.

#### **Indirect Costs**

The amount included in this fiscal note for indirect is:

Fund Name		FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
608	Accident	\$32,000	\$27,000	\$27,000	\$27,000	\$27,000	\$27,000
609	Medical Aid	\$6,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
	Total:	\$38,000	\$32,000	\$32,000	\$32,000	\$32,000	\$32,000

The department assesses an indirect rate to cover agency-wide administrative costs. Labor and Industries indirect rate is applied on salaries, benefits, and standard costs. For fiscal note purposes the total indirect amount is converted into salary and benefits for partial or full indirect FTEs. Salary and benefits costs are based on a Fiscal Analyst 5 (Range 56, Step G).

### **Part IV: Capital Budget Impact**

None.

### **Part V: New Rule Making Required**

This legislation would result in:

- An entirely new WAC section would be required.