

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 2511 HB	<b>Title:</b> Domestic worker protections
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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	0	0	152,000	0	152,000
Office of Administrative Hearings	0	0	0	167,720	0	167,720
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.					
<b>Total \$</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>319,720</b>	<b>0</b>	<b>319,720</b>

Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other	Fiscal note not available					
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
Office of Attorney General	.2	59,000	59,000	1.0	118,000	270,000	1.0	118,000	270,000
Office of Administrative Hearings	.0	0	0	.6	0	167,720	.6	0	167,720
Human Rights Commission	Fiscal note not available								
Department of Labor and Industries	.0	0	0	5.1	1,618,000	1,618,000	5.1	1,432,000	1,432,000
Department of Social and Health Services	Fiscal note not available								
<b>Total \$</b>	<b>0.2</b>	<b>59,000</b>	<b>59,000</b>	<b>6.7</b>	<b>1,736,000</b>	<b>2,055,720</b>	<b>6.7</b>	<b>1,550,000</b>	<b>1,869,720</b>

Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Fiscal note not available								
Local Gov. Total									

## Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
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
Human Rights Commission	Fiscal note not available								
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	Fiscal note not available								
<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> (360) 902-0541	<b>Date Published:</b> Preliminary 1/29/2020
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# Individual State Agency Fiscal Note

Revised

<b>Bill Number:</b> 2511 HB	<b>Title:</b> Domestic worker protections	<b>Agency:</b> 100-Office of Attorney General
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## 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 405-1				152,000	152,000
<b>Total \$</b>				152,000	152,000

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	0.4	0.2	1.0	1.0
<b>Account</b>					
General Fund-State 001-1	0	59,000	59,000	118,000	118,000
Legal Services Revolving Account-State 405-1	0	0	0	152,000	152,000
<b>Total \$</b>	0	59,000	59,000	270,000	270,000

### Estimated Capital Budget Impact:

NONE

*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: 01/21/2020
Agency Preparation: Michael Shinn	Phone: 360-759-2122	Date: 01/27/2020
Agency Approval: Dianna Wilks	Phone: 360-709-6463	Date: 01/27/2020
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 01/27/2020

## 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.*

Sections 1-19 are all new sections, and create a new chapter in Title 49 RCW.

Section 2 is a definitions section. Hiring entities is broadly defined, to include individuals hiring domestic workers. The Department is defined as the Department of Labor and Industries (L&I).

Section 3 sets requirements hiring entities must meet when employing domestic workers. These include paying minimum wage and overtime, providing meal and rest periods, rights for live-in domestic workers, written employment agreements, barring mandatory arbitration, and two weeks' notice of termination or four weeks for live-in workers.

Section 4 bars specific practices by hiring entities, bars discrimination and harassment as defined in chapter 49.60 RCW, or retaliating for exercising rights under the chapter.

Section 6 allows complaints to L&I for violations of section 3, which it may investigate. L&I may issue civil penalties for violations, with increased penalties for willful violations, up to \$20,000 for repeated willful violations. Penalties are payable to a fund for enforcing the chapter.

Section 7 allows administrative appeals of penalties, to be conducted by an Administrative Law Judge (ALJ) appointed by the Director of L&I pursuant to chapter 34.05 RCW. Judicial review of final administrative decisions is allowed under chapter 34.05.

Section 9 bars negative employment actions or retaliating for exercise of rights under the chapter by domestic workers.

Section 10 allows complaints to L&I for retaliation, which L&I may investigate. L&I may order reinstatement, wage payment, and penalties for violations. L&I may also find the hiring entity in compliance.

Section 11 allows civil penalties for retaliatory actions, ranging up to \$40,000 for repeat violations.

Section 12 allows domestic workers or hiring entities to seek reconsideration of penalties or determinations of compliance. Reconsideration decisions may be appealed in accordance with chapter 34.05 RCW. Judicial review of final administrative decisions is allowed under chapter 34.05.

Section 13 allows L&I to adopt rules implementing the chapter.

Sections 15 and 16 require the Attorney General's Office (AGO) to develop a model disclosure statement describing rights and obligations under the statute and a model written agreement, in at least eight of the languages most commonly spoken in Washington.

Section 17 allows private enforcement actions of the chapter. Attorney fees may be allowed against hiring entities.

Section 18 provides investigative powers to L&I, including subpoena power.

Section 19 creates a work group of domestic workers, administered by the AGO. The work group will establish a structure for an ongoing domestic worker standards board.

Sections 20 and 21 amend RCW 49.60.010 and 49.60.040 to remove existing exceptions for domestic workers.

Sections 23 and 24 make Section 19 effective July 1, 2020, and other sections effective July 1, 2021.

## **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.

AGO Headquarters Administration activities are funded with General Fund-State dollars. No cash receipt impact. There is no client agency to bill for legal services.

## **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: Legal services associated with the enactment of this bill will begin on July 1, 2020.

Assumptions for the AGO Headquarters-Admin Legal Services:

1. The AGO required General Fund-State dollars as there is not a client agency appropriate to bill for these legal services.
2. The AGO legal services include, but are not limited to:
  - A. Development of model disclosure statement (Section 15).
  - B. Development of a model written agreement (Section 16).
  - C. Administration of a domestic workers workgroup (Section 19)..
3. Total workload impact: Beginning in FY 2021, the AGO assumes a need for 0.25 Assistant Attorney General (AAG) and 0.13 Legal Assistant 3 (LA) at a cost of \$59,000 per FY.

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

1. The AGO will bill LNI for legal services based on the enactment of this bill.
2. This bill will result in:
  - A. Appeals for 733 additional complaints
  - B. Legal consultation for implementation and rulemaking
3. Notice of Assessment (NOA) Citations and Appeals: Based on FY 2019 wage claim figures, approximately 9.6 percent of completed wage claim investigations result in a NOAs of Wages owed (5,458 completed investigations / 527 NOAs issued). In this context, that means that an estimated 70 ( $733 \times 0.096$ , rounded) citations will result from LNI investigations. The appeal rate for comparable NOAs is 20 percent. 20 percent of 70 is 14 appeals.
4. Determinations of Compliance (DOC) and Appeals: Based on FY 2019 wage claim figures, approximately 4.8 percent of completed wage claim investigations result in a DOCs (5,458 completed investigations / 264 NOAs). In this bill, DOCs are only issued via Section 10. Unsubstantiated investigations under Section 6 result in a closure letter that does not provide appeal rights to the worker. That means that under this bill, 47 (claims under Section 10)  $\times$  0.048 (appeal rate) = 2 DOCs will be issued. The appeal rate for DOCs is 0.09, which would result here in less than one appeal. However, we can reasonably estimate there will be at least one appealed DOC.
5. Appeals of this complexity require approximately 0.2 Assistant Attorney General (AAG) FTE per 10 cases. Using figures based on current AAG FTEs for Wage Payment Act (WPA) work and including additional advice, LNI assumes this will require an additional 0.3 AAG FTE for advice and litigation of the expected 15 additional appeals per year.
6. Direct Litigation Costs: Based on current per diem, lodging, and government airfare rates, LNI estimates an appeal requiring travel will have direct costs of \$452/day. The complexity of these appeals will vary widely, but are estimated based on our experience with WPA appeals that average of two days of travel (including travel for the hearing and for depositions). Multiplying the daily cost by the estimate of two days per appeal, LNI estimates an average total cost of \$904 per appeal that requires travel. Based on historical experience, only 20% of the appeals require travel, so 3 appeals per year will have direct costs for travel. With 15 appeals beginning in FY 2021, the AGO assumes \$2,712 per year in direct costs.
7. Total workload impact: Beginning in FY 2022, the AGO assumes a need for 0.30 AAG and 0.15 LA at a cost of \$76,000 per FY (cost includes \$2,712 per FY for direct litigation costs).

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
001-1	General Fund	State	0	59,000	59,000	118,000	118,000
405-1	Legal Services Revolving Account	State	0	0	0	152,000	152,000
<b>Total \$</b>			0	59,000	59,000	270,000	270,000

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

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years		0.4	0.2	1.0	1.0
A-Salaries and Wages		39,000	39,000	172,000	172,000
B-Employee Benefits		13,000	13,000	58,000	58,000
C-Professional Service Contracts					
E-Goods and Other Services		7,000	7,000	32,000	32,000
G-Travel				6,000	6,000
J-Capital Outlays				2,000	2,000
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	59,000	59,000	270,000	270,000

### 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	105,000		0.3	0.1	0.6	0.6
Legal Assistant 3	52,536		0.1	0.1	0.3	0.3
Management Analyst 5	86,064		0.1	0.0	0.1	0.1
<b>Total FTEs</b>			0.4	0.2	1.0	1.0

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

Program	FY 2020	FY 2021	2019-21	2021-23	2023-25
HQ-Administration (ADM)		59,000	59,000	118,000	118,000
Labor and Industries (LNI)		76,000	76,000	152,000	152,000
<b>Total \$</b>		135,000	135,000	270,000	270,000

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

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

NONE

### IV. C - Capital Budget Breakout

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

NONE

**Part V: New Rule Making Required**



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2511 HB	<b>Title:</b> Domestic worker protections	<b>Agency:</b> 110-Office of Administrative Hearings
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## Part I: Estimates

☐ 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				167,720	167,720
<b>Total \$</b>				167,720	167,720

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	0.0	0.0	0.6	0.6
<b>Account</b>					
Administrative Hearings Revolving Account-State 484-1	0	0	0	167,720	167,720
<b>Total \$</b>	0	0	0	167,720	167,720

### Estimated Capital Budget Impact:

NONE

*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: 01/21/2020
Agency Preparation: Deborah Feinstein	Phone: 360-407-2717	Date: 01/22/2020
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 01/22/2020
OFM Review: Bryan Way	Phone: (360) 902-0650	Date: 01/27/2020

## 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.

This proposed legislation will result in increased appeals heard by the Office of Administrative Hearings.

### 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 the Attorney General and the Department of Labor and Industries estimate that this proposed legislation will result in 15 new appeals coming to the Office of Administrative Hearing (OAH) each fiscal year beginning in FY 2022. Based on similar types of cases, OAH estimates each appeal will take about 30 hours of line Administrative Law Judge (ALJ) time including prehearing conference, hearing, order writing, etc.

#### Workforce Assumptions:

- \* Ratio of 1 line ALJ to .15 Senior ALJ to 0.6 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 5 - range 64 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 2022 and each FY thereafter: .32 Administrative Law Judge at a cost of \$46,835; 0.05 Senior Administrative Law Judge at a cost of \$7,920; 0.19 Legal Assistant 2 at a cost of \$17,843. Agency administrative support is included using 0.08 FTE of a Management Analyst 5 as a representative at a cost of \$11,262. Total cost: \$83,860.

## 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	0	0	167,720	167,720
Total \$			0	0	0	167,720	167,720

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

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years				0.6	0.6
A-Salaries and Wages				102,708	102,708
B-Employee Benefits				36,720	36,720
C-Professional Service Contracts					
E-Goods and Other Services				25,600	25,600
G-Travel				1,156	1,156
J-Capital Outlays				1,536	1,536
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	0	0	167,720	167,720

**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				0.3	0.3
Legal Assistant 2	47,568				0.2	0.2
Management Analyst 5	86,064				0.1	0.1
Senior Administrative Law Judge	105,000				0.1	0.1
<b>Total FTEs</b>					0.6	0.6

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

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

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

NONE

### IV. C - Capital Budget Breakout

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

NONE

## Part V: New Rule Making Required

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2511 HB	<b>Title:</b> Domestic worker protections	<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 and/or savings. Please see discussion.

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	0.0	0.0	5.1	5.1
<b>Account</b>					
General Fund-State 001-1	0	0	0	1,618,000	1,432,000
<b>Total \$</b>	0	0	0	1,618,000	1,432,000

### Estimated Capital Budget Impact:

NONE

*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: 01/21/2020
Agency Preparation: Donald Jenson Jr	Phone: 360-902-6981	Date: 01/27/2020
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 01/27/2020
OFM Review: Anna Minor	Phone: (360) 902-0541	Date: 01/29/2020

## 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
001-1	General Fund	State	0	0	0	1,618,000	1,432,000
Total \$			0	0	0	1,618,000	1,432,000

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

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years				5.1	5.1
A-Salaries and Wages				662,000	662,000
B-Employee Benefits				260,000	260,000
C-Professional Service Contracts				105,000	
E-Goods and Other Services				515,000	484,000
G-Travel				26,000	26,000
J-Capital Outlays				50,000	
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	1,618,000	1,432,000

### 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
Fiscal Analyst 5	69,265				0.3	0.3
Industrial Relations Agent 2	64,334				3.8	3.8
Industrial Relations Agent 3	67,560				1.0	1.0
Total FTEs					5.1	5.1

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

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

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

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 provides labor protections for domestic workers. It amends RCW 49.46.101, adds a new chapter to RCW 49, prescribes penalties and provides an effective date.

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

**Section 2** 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.
- Also included are definitions for casual labor, domestic services, domestic worker, employer and hiring entity.

**Sections 3 and 4** add new sections to RCW 49, establishing the requirements that a hiring entity must follow when employing a domestic worker.

**Section 6** states that if a domestic worker files a complaint alleging a violation of the domestic worker rights in sections 3 with L&I, that L&I has the authority to conduct an investigation. It also gives L&I the authority to issue civil penalties.

**Section 9** prohibits the hiring entity from using a domestic worker’s exercise of any of the rights in this chapter as a negative factor in any employment action.

**Section 10** states that if a domestic worker believes they were subject to retaliation by their hiring entity, they may file a complaint with L&I. L&I has the authority to investigate the complaint.

**Section 11** gives L&I the authority to issue civil penalties for investigations outlined in section 10.

**Section 13** gives L&I the authority to adopt rules to implement this chapter.

**Section 18** gives L&I the authority to conduct investigations to ensure compliance with this chapter.

**Section 19** establishes a work group, administered by the Attorney General, to make the Washington State industrial insurance state-fund available for hiring entities to provide industrial insurance coverage for domestic workers. It also establishes guidelines for the participants of the workgroup.

**Section 20** amends RCW 49.46.010, excluding domestic workers from the definition of an employee in subsection 3(j).

**Section 23** states that sections 1 through 18, 20, and 21 of this bill take effect July 1, 2021.

**Section 24** states that section 19 of this bill takes effective July 1, 2020.

## **II. B – Cash Receipt Impact**

Section 6 of this bill allows L&I to issue penalties of \$1,000 for each willful violation of domestic worker rights. For repeat violators, the penalty issued will be not less than \$2,000 for each willful violation, but no greater than \$20,000. It directs the penalties paid to be deposited into a domestic workers rights grant program. L&I does not currently have data predicting how many repeat violations there might be associated with this bill. Therefore, the cash receipt estimate for this section is **indeterminate**.

Section 11 of this bill allows L&I to issue penalties dealing with retaliation of not less than \$1,000 per violation, or ten percent of the total amount of unpaid wages, whichever is greater. It directs the penalties paid into a fund dedicated to enforcement of this chapter. L&I does not currently have access to unpaid wage data. Therefore, the cash receipt estimate for this section is **indeterminate**.

At a minimum, using \$1,000 per violation L&I estimates an annual increase to revenue. 734 total complaints are anticipated. (see expenditure assumptions)



- Based on 2019 wage complaint data, 9.6 percent of complaints will result in a violation.
- 70 violations will be issued ( $734 \text{ complaints} \times 0.096 \text{ violation rate} = 70.4$ ).
- \$70,000 in penalties will be assessed annually. ( $70 \text{ violations} \times \$1,000 \text{ penalty} = 70,000$ )
- Historical collection rate on violations is 40 percent.
- \$28,000 annual increase in cash receipts is expected beginning in fiscal year 2022.  
( $\$70,000 \text{ assessed} \times 0.40 \text{ collection rate} = \$28,000$ ).

## **II. C – Expenditures**

### **Appropriated -Operating Costs**

This bill increases expenditures to the General Fund-State, fund 001. The following assumptions were used to estimate the resources requested to implement this bill.

### **Staffing**

The expenditure calculations in this fiscal note includes the compensation and benefit changes approved in the 19-21 Biennial Budget.

- 3.0 FTE Industrial Relations Agent 2 (IRA2), permanent, beginning July 1, 2021. Duties include investigating complaints to section 3 of this bill, recommending assessments and penalties, as allowed in section 6 of the bill. The following assumptions were used:
  - 343,200 employees are estimated to be impacted by this bill.
    - According to the Seattle Worker Alliance, there are 33,000 domestic workers in Seattle.
    - The 2018 population of Seattle is 724,745. The 2018 population of the State of Washington is 7,536,000. The State has 10.4 times the population of the City of Seattle. ( $7,536,000 / 724,745 = 10.4$ )
    - Using this multiplier, there are 343,200 employees assumed to be impacted by this bill statewide. ( $33,000 \times 10.4 = 343,200$ )
  - The investigations under section 3 of this bill are similar to cases investigated by Wage Payment Act investigators.
  - The complaint rate for wage payment act complaints is 0.2 percent ( $6,200 \text{ annual complaints} / 3.2 \text{ million workers} = 0.002$ ).

- 686 complaint investigations are anticipated annually. ( $343,200 \text{ employees} \times .002 \text{ complaint rate} = 686.4$ )
- A standard IRA2 wage agent will investigate about 240 complaints per year.
- This results in 2.9 FTE needed. ( $686 \text{ complaints} / 240 \text{ complaints per IRA2} = 2.9$ ).
- 0.8 FTE Industrial Relations Agent 2 (IRA2), permanent, beginning July 1, 2021. Duties include investigating complaints to section 9 and 10 of this bill, recommending assessments and penalties, as allowed in section 11 of the bill. The following assumptions were used:
  - 343,200 employees are estimated to be impacted by this bill.
    - According to the Seattle Worker Alliance, there are 33,000 domestic workers in Seattle.
    - The 2018 population of Seattle is 724,745. The 2018 population of the State of Washington is 7,536,000. The State has 10.4 times the population of the City of Seattle. ( $7,536,000 / 724,745 = 10.4$ )
    - Using this multiplier, there are 343,200 employees assumed to be impacted by this bill. ( $33,000 \times 10.4 = 343,200$ )
  - The investigations under section 9 of this bill are similar to cases investigated by Minimum Wage Act retaliation investigators.
  - The complaint rate for retaliation complaints is 0.014 percent ( $453 \text{ annual complaints} / 3.2 \text{ million workers} = 0.00014$ ).
  - 48 complaint investigations are anticipated annually. ( $343,200 \text{ employees} \times .00014 \text{ complaint rate} = 48$ )
  - A standard IRA2 wage agent will investigate about 60 retaliation complaints per year.
  - This results in 0.8 FTE needed. ( $48 \text{ complaints} / 60 \text{ complaints per IRA2} = 0.8$ ).
- 1.0 FTE Industrial Relations Agent 3 (IRA3), permanent, beginning July 1, 2021. Duties include providing technical assistance to employers, and serving as the supervisor of the team of IRA2s listed above.

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

\$105,025 is needed for 811 contractor hours to incorporate changes to multiple existing L&I computer applications, to occur during fiscal year 2022. This includes changes to the Complaint Tracking System (CATS), 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**

\$5,000 is needed for two rule making hearings to occur during fiscal year 2022. The average cost of one rule making hearing is \$2,500. (2 hearings x \$2,500 each = \$5,000)

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

Providing legal advice on rule making and appeals will require an additional 0.30 FTE Assistant Attorney General (AAG), 0.15 FTE Legal Assistant (LA), at a cost of \$76,000 annually beginning in fiscal year 2022.

### **Administrative Hearings**

\$83,860 annually is needed, beginning fiscal year 2022, for administrative hearings at the Office of Administrative Hearings. This estimate is based on 15 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
001	General Fund	\$0	\$0	\$33,000	\$33,000	\$33,000	\$33,000
	Total:	\$0	\$0	\$33,000	\$33,000	\$33,000	\$33,000

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 59, Step G).

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

None.

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

This legislation would result in new rules being created to implement this bill.