

Multiple Agency Fiscal Note Summary

Bill Number: 1073 HB	Title: Paid leave coverage
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Estimated Cash Receipts

Agency Name	2021-23			2023-25			2025-27		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	942,000	0	0	860,000	0	0	860,000
Office of Administrative Hearings	0	0	114,390	0	0	114,390	0	0	114,390
Employment Security Department	0	0	123,393,511	0	0	552,147,961	0	0	199,688,546
Total \$	0	0	124,449,901	0	0	553,122,351	0	0	200,662,936

Estimated Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	3.4	0	0	942,000	3.1	0	0	860,000	3.1	0	0	860,000
Office of Administrative Hearings	.4	0	0	114,390	.4	0	0	114,390	.4	0	0	114,390
Employment Security Department	141.5	0	0	29,881,010	138.7	0	0	28,390,652	138.7	0	0	28,390,652
Total \$	145.3	0	0	30,937,400	142.2	0	0	29,365,042	142.2	0	0	29,365,042

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	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
Employment Security Department	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Anna Minor, OFM	Phone: (360) 790-2951	Date Published: Final 1/15/2021
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Individual State Agency Fiscal Note

Bill Number: 1073 HB	Title: Paid leave coverage	Agency: 100-Office of Attorney General
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
Legal Services Revolving Account-State 405-1	512,000	430,000	942,000	860,000	860,000
Total \$	512,000	430,000	942,000	860,000	860,000

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	3.7	3.1	3.4	3.1	3.1
Account					
Legal Services Revolving Account-State 405-1	512,000	430,000	942,000	860,000	860,000
Total \$	512,000	430,000	942,000	860,000	860,000

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: Lily Smith	Phone: 360-786-7175	Date: 01/06/2021
Agency Preparation: Bruce Turcott	Phone: (360) 586-2738	Date: 01/12/2021
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 01/12/2021
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 01/14/2021

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 amends RCW 50A.05.010 to amend the definition of family member.

Section 2 amends RCW 50A.15.010 to amend employee eligibility for family and medical leave benefits.

Section 3 amends RCW 50A.35.010 to amend applicability of the section.

Section 4 amends RCW 50A.35.020 to amend applicability of the section.

This law is assumed effective July 1, 2021 for this fiscal note.

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 Services Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is the Employment Security Department (ESD). The Attorney General's Office (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 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.

Attorney General's Office (AGO) Agency Assumptions:

1. Legal services associated with the enactment of this bill will begin on July 1, 2021.
2. Agency administration support FTE are included in the tables below, using a Management Analyst 5 as a representative classification.

Assumptions for the AGO Licensing & Administrative Law Division (LAL) Legal Services for the Employment Security Department (ESD):

1. The AGO will bill ESD for legal services based on the enactment of this bill.
2. Sections 1, 3, and 4 represent significant expansions of Paid Family and Medical Leave (PFML) coverage and will increase litigation cases. Based on the substantive changes in these sections, each case will be significantly

more challenging than a typical case. Cases litigated under Section 1 will be more complicated because the definition of family member is expanded to an ambiguous standard of “affinity whose close association . . . is the equivalent of a family member.” Cases under Sections 3 and 4 will be more challenging because they create a new state law standard for job restoration and maintenance of health benefits that expressly differs from the federal Family and Medical Leave Act (FMLA) standard where there was robust regulatory and case law, thereby increasing the likelihood of challenges by employers. The AGO conservatively estimates an additional 900 Assistant Attorney General (AAG) hours and 130 Paralegal (PL) hours of litigation work beginning in FY 2022 and in each FY thereafter, related to these sections.

3. Section 2 also significantly expands PFML coverage. Based on the ESD assumption of a 42 percent increase in PFML applications filed due to the change in eligibility criteria (replacing an 820 hour requirement with a \$1,000 earnings requirement), the AGO assumes that this increase in applications will correspond to a 42 percent increase in administrative appeals in which the AGO provides representation for ESD. This new workload will result in 1,680 AAG hours and 140 PL hours of litigation work beginning in FY 2022 and in each FY thereafter. This calculation is based on data from the six-month period from July through December 2020, in which the AGO provided approximately 2,000 AAG hours and 160 PL hours of legal services attributable to PFML benefits litigation, and assuming a 42 percent increase attributable to this bill section.

4. All sections of this bill will result in need for significant advice on rulemaking for new and amended rules, each of which would be complex and require multiple rounds of review; development and review of policies and operational processes and communications; and advice on vendor contracts issues for implementing system changes. It is assumed this will all occur in FY 2022 and require 600 AAG hours for advice. Advice will also be required on interpretation of the law changes generally, and applying the law changes to individual claims, and this work, totaling an additional estimated 400 AAG hours, will occur in FY22 and each FY thereafter.

5. The AGO assumes direct litigation costs for court reporters, legal messenger services, and printing/copying services. \$15,000 per FY is assumed to be appropriate.

6. Total workload impact:

FY 2022: 2.0 AAG, 1.0 Legal Assistant (LA) and 0.15 PL at a cost of \$512,000 (this includes direct litigation costs of \$15,000).

FY 2023 and in each FY thereafter: 1.66 AAG, 0.83 LA and 0.15 PL at a cost of \$430,000 (this includes direct litigation costs of \$15,000).

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
405-1	Legal Services Revolving Account	State	512,000	430,000	942,000	860,000	860,000
Total \$			512,000	430,000	942,000	860,000	860,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	3.7	3.1	3.4	3.1	3.1
A-Salaries and Wages	326,000	272,000	598,000	544,000	544,000
B-Employee Benefits	103,000	86,000	189,000	172,000	172,000
E-Goods and Other Services	74,000	66,000	140,000	132,000	132,000
G-Travel	4,000	3,000	7,000	6,000	6,000
J-Capital Outlays	5,000	3,000	8,000	6,000	6,000
Total \$	512,000	430,000	942,000	860,000	860,000

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 2022	FY 2023	2021-23	2023-25	2025-27
Assistant Attorney General	108,600	2.0	1.7	1.8	1.7	1.7
Legal Assistant 3	54,108	1.0	0.8	0.9	0.8	0.8
Management Analyst 5	88,644	0.5	0.4	0.5	0.4	0.4
Paralegal 2	69,264	0.2	0.2	0.2	0.2	0.2
Total FTEs		3.7	3.1	3.4	3.1	3.1

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Licensing & Administrative Law Division (LAL)	512,000	430,000	942,000	860,000	860,000
Total \$	512,000	430,000	942,000	860,000	860,000

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

IV. D - Capital FTE Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB

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.

N/A

Individual State Agency Fiscal Note

Bill Number: 1073 HB	Title: Paid leave coverage	Agency: 110-Office of Administrative Hearings
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
Administrative Hearings Revolving Account-State 484-1	57,195	57,195	114,390	114,390	114,390
Total \$	57,195	57,195	114,390	114,390	114,390

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.4	0.4	0.4	0.4	0.4
Account					
Administrative Hearings Revolving Account-State 484-1	57,195	57,195	114,390	114,390	114,390
Total \$	57,195	57,195	114,390	114,390	114,390

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: Lily Smith	Phone: 360-786-7175	Date: 01/06/2021
Agency Preparation: Deborah Feinstein	Phone: 360-407-2717	Date: 01/13/2021
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 01/13/2021
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 01/14/2021

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 impacts benefit eligibility and employment protections under the Paid Family and Medical Leave Program. The Employment Security Department (ESD) administers the program. Appeals will be heard by the Office of Administrative Hearings. This bill would significantly expand the pool of employees eligible for benefits, by reducing the eligibility requirements related to hours worked. It would also expand eligibility for employment restoration and continuation of health benefits. With the significantly greater number of potential beneficiaries, associated appeals are anticipated to increase.

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 Employment Security Department 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 Employment Security Department estimates that the proposed legislation will result in an additional 123 Paid Family and Medical Leave benefit appeals being heard each fiscal year at the Office of Administrative Hearings. The appeals will begin in FY 2022 and be ongoing.

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 fiscal year thereafter: .21 FTE Administrative Law Judge at a cost of \$32,926; .03 FTE Senior Administrative Law Judge at a cost of \$5,098; .13 FTE Legal Assistant 2 at a cost of \$12,118. Agency administrative support is included using .05 FTE of a Management Analyst 5 as a representative at a cost of \$7,053. Total cost: \$ 57,195

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
484-1	Administrative Hearings Revolving Account	State	57,195	57,195	114,390	114,390	114,390
Total \$			57,195	57,195	114,390	114,390	114,390

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.4	0.4	0.4	0.4	0.4
A-Salaries and Wages	34,741	34,741	69,482	69,482	69,482
B-Employee Benefits	12,385	12,385	24,770	24,770	24,770
C-Professional Service Contracts					
E-Goods and Other Services	9,187	9,187	18,374	18,374	18,374
G-Travel	378	378	756	756	756
J-Capital Outlays	504	504	1,008	1,008	1,008
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	57,195	57,195	114,390	114,390	114,390

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 2022	FY 2023	2021-23	2023-25	2025-27
Administrative Law Judge	98,000	0.2	0.2	0.2	0.2	0.2
Legal Assistant 2	48,996	0.1	0.1	0.1	0.1	0.1
Management Analyst 5	88,644	0.1	0.1	0.1	0.1	0.1
Senior Administrative Law Judge	112,000	0.0	0.0	0.0	0.0	0.0
Total FTEs		0.4	0.4	0.4	0.4	0.4

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

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

None.

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 1073 HB	Title: Paid leave coverage	Agency: 540-Employment Security Department
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
Family and Medical Leave Insurance Account-State 22f-1		123,393,511	123,393,511	552,147,961	199,688,546
Total \$		123,393,511	123,393,511	552,147,961	199,688,546

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	144.4	138.7	141.5	138.7	138.7
Account					
Family and Medical Leave Insurance Account-State 22F-1	15,685,684	14,195,326	29,881,010	28,390,652	28,390,652
Total \$	15,685,684	14,195,326	29,881,010	28,390,652	28,390,652

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: Lily Smith	Phone: 360-786-7175	Date: 01/06/2021
Agency Preparation: Dan Phillips	Phone: 360 902-9448	Date: 01/15/2021
Agency Approval: Carole Holland	Phone: 360 4817209	Date: 01/15/2021
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 01/15/2021

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 amends benefit eligibility and employment protections under PFML by expanding the definition of "family member," reducing the minimum benefit eligibility requirements, reducing employment restoration requirements, and reducing health benefit continuation requirements.

Sec. 1 - The definition of "family member" is amended to include "any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family member." Based on the expanded definition of "family member," additional applications will likely be received. Training will be required to properly adjudicate applications based on the expanded definition. More benefits will be paid out, which may result in a premium rate increase.

Sec. 2 - The requirement to have worked at least 820 hours during the qualifying period to establish eligibility is removed and replaced with a requirement to have earned at least \$1,000 in employment during the qualifying period. System updates will be needed to establish eligibility based on wages earned rather than hours worked. Training will be required to properly adjudicate applications based on the new eligibility requirements. With substantially lower eligibility requirements (a minimum wage worker would reach the threshold in just 74.15 hours in 2021 compared to the previous requirement of 820 hours), a premium rate increase is considerably more likely based on an expanded eligibility pool.

Sec. 3 - The requirements for an employer to offer employment restoration to an employee who is returning to work from a period of paid family or medical leave are changed. The requirement that the employee must have worked at least 1,250 hours in the 12 months preceding leave is removed. The requirement that the employer must have at least 50 employees in employment each week for the 20 weeks preceding leave is removed. The requirement that the employee must have worked for the employer for at least 12 months is reduced to 90 days. With an expanded pool of beneficiaries eligible for employment restoration, the number of complaints regarding wrongful termination will likely increase. This will result in additional investigations by our customer care team and compliance team. Associated appeals would also increase.

Sec. 4 - The requirement for an employer to offer the continuation of health benefits are changed. The requirement that health benefit continuation be offered based on whether the employer is subject to the federal Family and Medical Leave Act is removed. The employer is now required to offer health benefit continuation to an employee if they are also eligible for employment restoration under the amended requirements described in Sec. 3 of the bill. With a drastically expanded pool of beneficiaries eligible for benefit continuation, the number of complaints regarding an employer's failure to comply will likely increase. This will result in additional investigations by our customer care team and compliance team. Associated appeals would also increase.

In addition to the above impacts, a broad outreach effort will be required to notify employers, employees, and other stakeholders of the changes to the program.

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 2022	FY 2023	2021-23	2023-25	2025-27
22F-1	Family and Medical Leave Insurance Account	State	15,685,684	14,195,326	29,881,010	28,390,652	28,390,652
Total \$			15,685,684	14,195,326	29,881,010	28,390,652	28,390,652

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	144.4	138.7	141.5	138.7	138.7
A-Salaries and Wages	7,455,596	6,999,946	14,455,542	13,999,892	13,999,892
B-Employee Benefits	2,982,239	2,799,978	5,782,217	5,599,956	5,599,956
C-Professional Service Contracts	433,440		433,440		
E-Goods and Other Services	2,805,871	2,509,617	5,315,488	5,019,234	5,019,234
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	2,008,538	1,885,785	3,894,323	3,771,570	3,771,570
9-					
Total \$	15,685,684	14,195,326	29,881,010	28,390,652	28,390,652

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 2022	FY 2023	2021-23	2023-25	2025-27
Indirect FTEs	67,560	15.8	14.8	15.3	14.8	14.8
IT App Developer Entry	77,724	0.2		0.1		
IT App Developer Journey	83,556	0.6		0.3		
IT Business Analyst Journey	83,556	1.0		0.5		
IT Project Management Journey	87,732	0.3		0.2		
IT Quality Assurance Entry	72,324	0.4		0.2		
IT Quality Assurance Senior Specialist	92,112	0.2		0.1		
IT Systems Administration Journey	87,732	0.2		0.1		
Management Analyst 3	59,688	1.0	1.0	1.0	1.0	1.0
Office Assistant 3	36,804	3.0	3.0	3.0	3.0	3.0
PFML Specialist 2	54,108	90.0	90.0	90.0	90.0	90.0
PFML Specialist 3	59,688	21.9	21.9	21.9	21.9	21.9
WMS Band 1	80,411	7.0	7.0	7.0	7.0	7.0
WMS Band 2	92,469	1.0	1.0	1.0	1.0	1.0
WMS Band 3	113,119	2.0		1.0		
Total FTEs		144.4	138.7	141.5	138.7	138.7

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

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

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.

Sec. 1 would require amendments to Chapter 192-500 WAC and possibly other chapters to clarify "any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family member."

Sec. 2 would require amendments to WAC 192-510-030 and possibly other rules.

Sec. 3 would require amendments to Chapter 192-700 WAC and possibly other chapters.

Sec. 4 would require amendments to WAC 192-700-020 and possibly other rules.

Cash Receipts Narrative

The expansion of eligible beneficiaries and subsequent benefit payments will trigger a premium increase and possibly even a solvency surcharge as required by RCW 50A.10.030.

The following table shows a projection of the PFML Fund Balance taking increased benefit payments and administration and implementation costs of this bill:

Fund Balance at 3rd Qtr	Fund Balance Ratio		Rate Year	Premium Rate	Solvency Surcharge Added
421,759,007	0.20%		2021	0.4%	
221,008,468	0.10%		2022	0.5%	
(46,511,193)	-0.02%		2023	0.6%	0.2%
21,525,295	0.01%		2024	0.6%	0.1%
216,266,133	0.09%		2025	0.6%	
240,735,962	0.09%		2026	0.6%	
197,657,471	0.07%		2027	0.6%	

Under current law, if the fund balance ratio is less than .05%, we assess a solvency surcharge. The total rate for each year shown would be the premium rate plus the solvency surcharge. So, for example, rate year 2023 would have a total premium of .8%.

Even with some solvency surcharges, we would still have a period during which the fund balance would be negative. Our understanding of the law is that a solvency surcharge is only possible under the situation described in RCW 50A.10.030(7) in which the fund balance ratio is less than .05%. Our projections for rates under HB 1073 result in an odd situation in which in order to keep the fund balance from going negative, we would need a higher premium rate than the current law affords, or the ability to assess a solvency surcharge even when the fund balance is greater than .05%.

The following table is a revenue projection showing projected revenue under current law, and what the projected revenue would be with the solvency surcharge:

Premium Revenue	Current Projection	HB1073 Expansion	Difference
FY 22	719,050,070	719,050,070	0
FY 23	924,258,195	1,047,651,707	123,393,511
FY 24	1,093,105,560	1,438,168,446	345,062,885
FY 25	1,084,862,220	1,291,947,926	207,085,706
FY 26	1,053,768,295	1,190,754,532	136,986,238
FY 27	1,151,867,315	1,214,569,623	62,702,308

Operating Narrative

Assumptions:

- Eligibility pool rises from 2,512,303 to 3,569,932 (+1,057,629)
 - Based on number of workers who have worked 820 hours in a four-quarter period and how many workers have earned \$1,000 in a four-quarter period.
 - The eligibility pool will increase by approximately 42% (1,057,629/2,512,303). This ratio will be used to project increases in staff by assuming a 42% increase over current workloads.
- Number of applications received is estimated at 288,908 for FY 2022, increasing each fiscal year thereafter. The number was derived from an analysis of:
 - The new pool of eligible workers based on reduced eligibility requirement included in the bill (3,569,932)
 - The CY 2020 application rate of the pool of eligible workers under existing eligibility requirements (Current applications (203,316) divided by current eligibility pool (2,512,303) equals 8.1%).
- Effective date of 7/1/2021
- The estimated costs do not include a “welcome mat” effect, such as those experienced during the implementation of the PFML program.

The following table represents the current projected number of approved applications and benefits to be paid out, along with the new projected total following approval of this bill, and the amount of the increase, for fiscal years 2022 through 2025:

Fiscal Year		Projected Approved Applications	Projected Benefits Paid
FY 22	Existing Total	203,316	\$804,003,850
	New Total	288,908	\$941,108,701
	Difference	85,592	\$137,104,851
FY 23	Existing Total	218,323	\$871,879,714
	New Total	310,232	\$1,020,559,273
	Difference	91,909	\$148,679,559
FY 24	Existing Total	229,239	\$924,628,437
	New Total	325,744	\$1,082,303,109
	Difference	96,505	\$157,674,673
FY 25	Existing Total	234,830	\$956,536,083
	New Total	333,689	\$1,119,651,890
	Difference	98,859	\$163,115,807

All sections of the bill have fiscal impact.

Customer Care Team

The current assumptions are that the customer care team can process approximately 1,000 applications per year per staff. For FY 22 the applications are projected to increase by 85,592, meaning we will need 86 PFML Specialists 2 to process them. In addition, Employers will have question on the new requirements that we will need to help them with. It is estimated that we need an additional 4 PFML Specialist 2 to do this work. We will also match our current team composition structure for these staff i.e. leadership. In all, the customer care team will need:

90 FTE PFML Specialist 2 (86 plus 4)
7 FTE PFML Specialist 3
7 FTE WMS 1
1 WMS 2

Training

An Additional Trainer will be needed to support these new teams. This is to train on new work and to provide ongoing training to all the teams. This requires:

1 FTE PFML Specialist 3

Support Structures

Increased benefit applications and other items will increase the need for basic backend processing work including document processing, work review, operational data, process development. These would be increased proportionate to the increased benefit applications. A 42% increase in benefit applications equates to needing the following staff:

1 FTE Management Analyst 3
2 FTE PFML Specialist 3
3 FTE Office Assistant 3

Complaint Resolution

Assumptions:

- There are currently 665,869 workers eligible for job protection
 - Analysis of employer reports of employees who:
 - Appear on at least five consecutive employer reports
 - Worked 1,250 hours for that employer
 - Work for an employer reporting at least 50 employees
- The pool of workers eligible for job protection would rise to 2,409,983 (262% increase)
 - Analysis of employer reports who appear on at least two consecutive employer reports

A 262% increase in complaints associated with job protection and health insurance continuation would require a proportionate increase in staffing to handle those complaints.

Current staffing of complaint resolution is 3 FTE. $3 * 262\% = 7.86$. We need to increase staff to match this need:

4.86 FTE PFML Specialist 3

Compliance

More potential for allegations of wrongdoing that we have an obligation to investigate. No current stats exist to use as a baseline. However, given the expansion is targeted at small employers who are likely less familiar with job protection as they are exempt under FLMA. Additional staff will be also be needed to work appeals as well and investigate benefits fraud. Using a 42% increase to current staff, it is estimated this work will require:

7 FTE PFML Specialist 3

Due to the obstacles of simultaneous implementation, additional leadership and project management resources will be required. These will be project positions for one year, starting July 1, 2021 through June 30, 2022.

2 FTE WMS 3 (FY22 only)

IT

Several new FTE's will be required to implement the bill as written. Due to simultaneous implementation of technology needs related to both Paid Family and Medical Leave and Long Term Services and Support, a new team of IT staff will be needed to implement, along with contracted services. These IT FTEs will be project positions for the time required to make necessary updates only, approximately 5 months. FTEs are separated into three groups based on implementation timeline:

- Specification and Design (6 weeks). This group is responsible for designing the specifications needed for technological implementation of the bill. Their duties will involve spring planning, software architecture development, and identifying the business needs of the bill. This group requires the following staff and contracted services:
 - .69 FTE IT Business Analyst – Journey (6 staff for 6 weeks)
 - Contract for Delivery Architect – Senior Consultant. 480 hours at \$140 per hour = \$67,200
- Software Build (8 weeks). Responsible for executing the coding and software requirements of the bill.
 - Delivery Architect – Senior Consultant. 320 hours at \$140 per hour = \$44,800
 - Senior Technical Architect – 160 hours at \$212 per hour = \$33,920
 - Lead Application Developers – 640 hours at \$176 per hour = \$112,640
 - QA Engineer – 320 hours at \$122 per hour = \$35,840
 - .31 FTE IT Business Analyst - Journey
 - .62 FTE IT Application Development – Journey
 - .31 FTE IT Project Management – Journey
 - .15 FTE IT Application Development – Entry
 - .30 FTE IT Quality Assurance - Entry
- Software Test and Deploy (4 weeks). Responsible for testing and final deployment of the updated software environments as well as troubleshooting any bugs that arise.
 - Build Manager – 160 hours at \$140 per hour = \$22,400
 - DB Administrator – 160 hours at \$104 per hour = 16,640
 - Deployment Lead – 160 hours at \$110 per hour = \$17,600
 - Senior Test Engineer – 160 hours at \$110 per hour = \$17,600
 - Test Engineer – 160 hours at \$85 per hour = 13,600
 - Performance test engineer – 320 hours at \$160 per hour = \$51,200
 - .08 FTE IT Quality Assurance – Entry
 - .15 FTE IT Quality Assurance – Senior Specialist
 - .15 FTE IT Systems Administration – Journey
- Summary of IT costs
 - Total amount for contracted work = \$433,440
 - Total Staffing by position
 - 1.00 FTE IT Business Analyst – Journey

- .62 FTE IT Application Development – Journey
- .31 FTE IT Project Management – Journey
- .15 FTE IT Application Development – Entry
- .38 FTE IT Quality Assurance – Entry
- .15 FTE IT Quality Assurance – Senior Specialist
- .15 FTE IT Systems Administration - Journey

Indirect

In order to support these FTEs, it is estimated the agency will require in Fiscal Year 22 \$2,008,538 and 15.75 FTEs of indirect. In Fiscal Year 23 and beyond, it is estimated that we will require \$1,885,785 and 14.79 FTEs of indirect.

Other costs:

Printing and mailing costs are estimated to increase at the same proportion as the increased applications, 42%. 1 year of printing and mailing costs at the current level is \$328,782. A 42% increase equates to \$145,943 per fiscal year. Additionally, a onetime cost of \$122,000 in FY 22 for employer outreach is required, making a total of \$257,943 in FY22, and \$145,943 per year thereafter.

Minor Rulemaking will be required at an estimated cost of \$30,000 in FY 22.

Attorney General's Office

Assumptions for the AGO Division's Licensing & Administrative Law Division (LAL) Legal Services for the Employment Security Department (ESD):

1. The AGO will bill ESD for legal services based on the enactment of this bill.
2. Sections 1, 3, and 4 represent significant expansions of PFML coverage and will increase litigation cases. Based on the substantive changes in these sections, each case will be significantly more challenging than a typical case. The AGO conservatively estimates an additional 900 Assistant Attorney General (AAG) hours and 130 Paralegal (PL) hours of litigation work beginning in FY 2022 and in each Fiscal Year thereafter, related to these sections. Cases litigated under Section 1 will be more complicated because the definition of family member is expanded to an ambiguous standard of "affinity whose close association . . . is the equivalent of a family member." Cases under Sections 3 and 4 will be more challenging because they create a new state law standard for job restoration and maintenance of health benefits that expressly differs from the federal FMLA standard where there was robust regulatory and case law, thereby increasing the likelihood of challenges by employers.
3. Section 2 also significantly expands PFML coverage. Based on the ESD assumption of a 42 percent increase in PFML applications filed due to the change in eligibility criteria (replacing an 820 hour requirement with a \$1,000 earnings requirement), the AGO assumes that this increase in applications will correspond to a 42 percent increase in administrative appeals in which the AGO provides representation for ESD. This new workload will result in 1680 AAG hours and 140 PL hours of litigation work beginning in FY 2022 and in each FY thereafter. This calculation is based on data from the six-month period from July through December 2020, in which the AGO provided approximately 2,000 AAG hours and 160 PL hours of legal services attributable to PFML benefits litigation, and assuming a 42 percent increase attributable to this bill section.

4. All sections of this bill will result in need for significant advice on rulemaking for new and amended rules, each of which would be complex and require multiple rounds of review; development and review of policies and operational processes and communications; and, advice on vendor contracts issues for implementing system changes. It is assumed this will all occur in FY 2022 and require 600 AAG hours for advice. Advice will also be required on interpretation of the law changes generally, and applying the law changes to individual claims, and this work, totaling an additional estimated 400 AAG hours, will occur in FY22 and each FY thereafter.
5. The AGO assumes direct litigation costs for court reporters, legal messenger services and printing/copying services. \$15,000 per FY is assumed to be appropriate.
6. Total workload impact: FY 2022: 2.0 AAG, 1.0 Legal Assistant (LA) and 0.15 PL at a cost of \$512,000 (this includes direct litigation costs of \$15,000). FY 2023 and in each FY thereafter: 1.66 AAG, 0.83 LA and 0.15 PL at a cost of \$430,000 (this includes direct litigation costs of \$15,000).

Office of Administrative Hearings

The current number of projected hearings in FY 22 is 292. Increasing that number by 42% for the increase in applications equals 415 appeals, for a difference of 123 appeals. At a rate of \$465 per appeal, this will be an increase of \$57,195 per year.

Small Business Grants

In addition to these costs, there will be an amount of indeterminate costs related to small business grants. The department assumes that, ultimately, this bill will result in a higher number of employees taking leave, it is reasonable to also assume that employers will, as a result, apply for more small business grants. Grants were not available until January 2021, and no projections currently exist. As a result of this lack of data, and such a wide range of grant money available (Between \$1 and \$3,000 per employee on leave), there is no baseline to project the cost of additional grants under this bill.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1073 HB

Title: Paid leave coverage

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☒ Cities: The proposed changes would increase the number of city employees eligible for the Paid Family and Medical Leave . It is unknown how many employees will apply for leave.
- ☒ Counties: Same as above
- ☒ Special Districts: Same as above
- ☐ Specific jurisdictions only:
- ☒ Variance occurs due to: 150 cities with fewer than 50 employees would now be required to pay health benefits when an employee uses leave.

Part II: Estimates

- ☐ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☒ Key variables cannot be estimated with certainty at this time: Premium rates are set annually and are not known at this time. It is unknown how many employees will use the benefit and it is not possible to predict how much employer premiums would raise as a result.

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Part III: Preparation and Approval

Fiscal Note Analyst: Tracy Schreiber	Phone: 360-725-3126	Date: 01/14/2021
Leg. Committee Contact: Lily Smith	Phone: 360-786-7175	Date: 01/06/2021
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/14/2021
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 01/14/2021

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

This bill would expand eligibility for Washington's Paid Family and Medical Leave Program.

Section 1 would amend RCW 50A.05.010 and 2020 c 125 s 1.

Section 1(11) would expand the definition of "family member" to mean any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family member.

Section 2 would amend RCW 50A.15.010 and 2019 c 13 s 2.

It is proposed that eligibility for the program be amended. In current legislation, employees are eligible for benefits after working for at least 820 hours in employment. The proposed legislation would amend eligibility from hours worked to earnings, and an employee would become eligible once they have earned at least \$1,000 in employment.

Section 3 would amend RCW 50A.35.010 and 2019 c 13 s 4.

Section 3(6)(a) would amend eligibility for a worker's job protections.

-- The proposed legislation strikes the exemption for employers with 50 or fewer employees.

-- The proposed legislation would

strike the eligibility related to hours worked and lessen the required duration of employment for eligibility from 12 months to 90 days.

Section 4 would amend RCW 50A.35.020 and 2019 c 13 s 39.

This section requires employers to maintain health benefits of the employee during leave and would cover any employee covered by the proposed changes in Section 3(6)(a).

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

The legislation would result in an indeterminate impact to local governments.

The proposed changes would increase the number of city, county, and special district employees eligible for the Paid Family and Medical Leave Program. It is not possible to quantify how expanded eligibility will impact applications for leave during a given year.

Employment Security Department estimates that proposed changes to legislation will result in a 42 percent increase in the number of workers eligible for benefits. For example, in the proposed changes, a worker earning minimum wage would be eligible for the program after working approximately 73 hours, as opposed to 820 hours.

HEALTH INSURANCE

An employer employing fewer than 50 people would have expanded responsibility for maintaining existing health insurance of the employee during leave, if the employee was employed for at least 90 days. Approximately 150 Washington Cities have fewer than 50 full time employees, documented by the Association of Washington Cities (AWC) survey responding to a request to quantify full time employees. These jurisdictions would be specifically impacted by the proposed changes regarding when a worker's job is protected.

PREMIUM RATES

The program is funded through premiums paid by employers and employees. Currently, the premium is 0.4 percent of an employee's gross wages and the contribution is divided between the employer and the employee. Small businesses with fewer than 50 employees are not required to pay the employer portion of the premium; the employer still collects the worker's premium and the worker may still be eligible for the full leave benefit. The Employment Security Department (ESD) annually sets premium rates based on the family and medical leave insurance account balance ratio by dividing the balance of the family and medical leave insurance account by total covered wages paid by employers and those electing coverage as described in RCW 50A.10.030 (6). ESD has not yet projected the timing or amount of the increase as a result of the legislation, but it can be assumed that the premium rate would rise to allow coverage for the expanded pool of applicants. This would be in addition to any premium rate change that was already projected prior to the introduced legislation.

REPORTING

No changes to employer reporting are expected as a result of the proposed legislation. Employers will continue to report all hours and wages normally to the department.

OTHER ADDITIONAL COSTS

Additional costs may also occur through increased gaps in job duties due to the need to backfill duties of employees on leave . As \$1,000 is equivalent to approximately 73 hours of work at minimum wage, an employee may also be eligible for leave very early in their tenure with an employer, and as such, taking leave early on may impact their training and result in additional costs.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

This legislation would not impact local government revenue.

SOURCES

Association of Washington Cities (AWC)

Employment Security Department (ESD)

Municipal Research and Services Center (MRSC)

Washington State Association of Counties (WSAC)