

Multiple Agency Fiscal Note Summary

Bill Number: 1148 S HB	Title: Acute care hospitals
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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	38,000	0	0	44,000	0	0	44,000
Department of Health	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	38,000	0	0	44,000	0	0	44,000

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	.1	0	0	38,000	.1	0	0	44,000	.1	0	0	44,000
Office of Administrative Hearings	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Health	.2	34,000	34,000	92,000	.2	0	0	114,000	.2	0	0	114,000
Total \$	0.3	34,000	34,000	130,000	0.3	0	0	158,000	0.3	0	0	158,000

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
Department of Health	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

Prepared by: Danielle Cruver, OFM	Phone: (360) 522-3022	Date Published: Final 2/ 4/2021
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Individual State Agency Fiscal Note

Bill Number: 1148 S HB	Title: Acute care hospitals	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	12,000	26,000	38,000	44,000	44,000
Total \$	12,000	26,000	38,000	44,000	44,000

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.1	0.2	0.1	0.1	0.1
Account					
Legal Services Revolving Account-State 405-1	12,000	26,000	38,000	44,000	44,000
Total \$	12,000	26,000	38,000	44,000	44,000

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: Linda Merelle	Phone: 360-786-7092	Date: 01/29/2021
Agency Preparation: Stacia Hollar	Phone: (360) 664-0865	Date: 02/02/2021
Agency Approval: Dianna Wilks	Phone: 360-709-6463	Date: 02/02/2021
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 02/04/2021

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 70.41.020 to add definition of “immediate jeopardy”.

Section 2 amends RCW 70.41.130 regarding the Department of Health’s (DOH) authorized actions against hospitals for repeat violations. DOH is required to adopt rules.

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 Department of Health. 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 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.

Attorney General’s Office (AGO) Agency Assumptions:

1. This bill is assumed effective 90 days after the end of the 2021 legislative session.
2. Total workload impact in this request includes standard assumption costs for good & services, travel, and capital outlays for all FTE identified.

Assumptions for the AGO Agriculture & Health Division’s (AHD) Legal Services for the Department of Health:

1. The AGO will bill Department of Health (DOH) for legal services based on the enactment of this bill.
2. In FY 2022, 0.05 Assistant Attorney General (AAG) is assumed for advice regarding the implementation, and required rulemaking associated with authority to impose civil penalties/fines.
3. Beginning in FY 2023: With the enactment of this law, DOH anticipates eight enforcement actions per FY. DOH’s assumptions regarding number of enforcement actions is based on its knowledge of hospital licensees and consideration of historical inspections and investigations that could have resulted in fines for repeat violations, or could have resulted in immediate suspension of services if DOH had the authority to do so. The assumptions are also based on the DOH’s experience that most deficiencies and violations are resolved informally and will not

require significant AGO/AAG involvement. AHD believes these assumptions are reasonable.

4. Each enforcement will consist of six actions to impose a civil penalty for repeat violations and two actions to suspend specific services or categories of services, which can be challenged in a show cause hearing.

5. The AGO's assumes that each case, beginning in FY 2023, will consume an average of 20 AAG hours as conservative but reasonable, and is based on experience litigating other facility enforcement matters. This hours-per-case estimate also assumes most cases will settle before hearing, which is based on experience.

6. The AGO anticipates providing less advice to DOH relating to enforcement options after FY 2023, at which time the DOH will be more experienced at reviewing cases and making enforcement decisions, and will therefore require reduced AAG input.

7. AHD assumes direct litigation costs associated with the enactment of this law. Beginning in FY 2023, \$1,000 per FY is assumed for deposition and hearing transcripts, and associated court reporter costs.

8. Total workload impact:

FY 2022: 0.05 AAG at a cost of \$12,000.

FY 2023: 0.11 AAG and 0.06 Legal Assistant (LA) at a cost of \$26,000 (this includes direct litigation costs of \$1,000).

FY 2024 and in each FY thereafter: 0.09 AAG and 0.05 LA at a cost of \$22,000 per FY (this includes direct litigation costs of \$1,000 per FY).

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	12,000	26,000	38,000	44,000	44,000
Total \$			12,000	26,000	38,000	44,000	44,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.1	0.2	0.1	0.1	0.1
A-Salaries and Wages	8,000	17,000	25,000	28,000	28,000
B-Employee Benefits	3,000	5,000	8,000	8,000	8,000
E-Goods and Other Services	1,000	4,000	5,000	8,000	8,000
Total \$	12,000	26,000	38,000	44,000	44,000

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	0.1	0.1	0.1	0.1	0.1
Legal Assistant 3	54,108		0.1	0.0	0.1	0.1
Total FTEs		0.1	0.2	0.1	0.1	0.1

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Agriculture & Health Division (AHD)	12,000	26,000	38,000	44,000	44,000
Total \$	12,000	26,000	38,000	44,000	44,000

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

Individual State Agency Fiscal Note

Bill Number: 1148 S HB	Title: Acute care hospitals	Agency: 110-Office of Administrative Hearings
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Part I: Estimates

☒ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

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: Linda Merelle	Phone: 360-786-7092	Date: 01/29/2021
Agency Preparation: Deborah Feinstein	Phone: 360-407-2717	Date: 02/02/2021
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 02/02/2021
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 02/04/2021

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.

No fiscal impact. The Office of Administrative Hearings does not adjudicate appeals from the Department of Health.

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.

None.

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.

None.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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*

NONE

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: 1148 S HB	Title: Acute care hospitals	Agency: 303-Department of Health
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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 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.1	0.2	0.2	0.2	0.2
Account					
General Fund-State 001-1	34,000	0	34,000	0	0
General Fund-Private/Local 001-7	0	58,000	58,000	114,000	114,000
Total \$	34,000	58,000	92,000	114,000	114,000

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: Linda Merelle	Phone: 360-786-7092	Date: 01/29/2021
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 02/02/2021
Agency Approval: Carl Yanagida	Phone: 360-789-4832	Date: 02/02/2021
OFM Review: Danielle Cruver	Phone: (360) 522-3022	Date: 02/03/2021

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 fiscal impact of this substitute version of the bill is the same as the fiscal impact of the original bill.

This version of the bill removes the emergency clause; takes into consideration the following for determining fines: 1) number of beds and operational size of the hospital; 2) severity of the noncompliance; and 3) noncompliance that results in immediate jeopardy. This version requires that the secretary or secretary's designee review and approve limited stop service or stop placement notifications. It requires the department to adopt rules on a severity matrix for assessing civil fines for noncompliance actions.

Section 2: Amends RCW 70.41.130 (Hospital licensing and regulation – Denial, suspension, revocation, modification of license—procedure.) allowing the Department of Health (department) to take action against hospitals when the hospital has failed or refused to comply with applicable state statutes or regulation. When the department determines a hospital has repeat violations it may impose conditions on a license; assess civil fines; suspend, revoke or refuse to renew a license; and suspend new admissions (stop services) for all or certain categories of patients.

Section 3: This act takes effect immediately.

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.

Current law, RCW 43.70.250 (License fees for professions, occupations, and businesses.) requires that a business-licensing program be self-supporting and sufficient revenue be collected through fees to fund expenditures. The department does not anticipate the need to increase licensing fees to support the changes proposed in this bill. The department will monitor the program fund balance and adjust fees over a six (6) year period to ensure that fees are sufficient to cover all program expenditures.

Section 2(1): Civil Fines

Fines will be assessed during the enforcement process. The department estimates taking four (4) enforcement actions each fiscal year through the 2023-2025 biennium. Fines collected will be used to provide training or technical assistance to hospitals and to offset costs associated with licensing hospitals. The minimum fine is \$10,000 per violation and the total fine may not exceed \$1,000,000. While the department estimates taking eight (8) formal enforcement actions, the value of revenue collected from civil fines is indeterminate until the severity matrix is established for fines and cost-recovery and rules are adopted.

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 following assumptions were used to inform this analysis:

- Twelve months for rulemaking (July 2021 – June 2022)
- Eight (8) enforcement actions per year starting in FY 2023:

- o 2 surveys per year will result in a stop service type/category
- o 6 surveys per year would result in finding duplicate deficiencies from previous surveys
- Higher utilization of Office of Attorney General services with increased enforcement and rules support

Rulemaking:

Section 2: The department will adopt rules to establish the severity matrix for fines and cost-recovery. The department anticipates this will be a standard rulemaking process taking approximately 12 months to complete. Rulemaking will include two stakeholder meetings as well as one formal hearing which allows for stakeholder participation. Costs include staff, associated expenses (including goods and services, travel, intra-agency, and indirect charges), and Office of Attorney General support in the amount of \$4,100. In fiscal year 2022, one-time costs for rulemaking will be 0.10 FTE and \$24,000.

Health Technology Systems (HTS):

Integrated Licensing and Regulatory System (ILRS)

Section 2: During FY 2022, HTS staff will modify the department's ILRS. This will include conducting a business analysis, configuration, and testing of additional inspection types, case nature (allegations) and track duplicate deficiencies. Tasks include establishing workflows, user defined fields, templates, and modification or creation of reports. Total one-time costs are \$4,000 in FY 2022, and \$1,000 in FY 2023.

Healthcare Enforcement and Licensing Modernization Solution (HELMS)

Section 2: This bill may have an adverse impact to the department's HELMS Project schedule. The HELMS Project is under OCIO oversight. Such a delay increases risks to HELMS implementation and increases project costs due to an extended implementation timeline (e.g. staffing and associated costs) as well as contractor change order requests to configure additional inspection types, case nature (allegations) and tracking of duplicate deficiencies. The department estimates additional contractor hours of 22 hours for a one-time cost of \$6,000 in FY 2022. Starting in FY 2023 and ongoing costs include staff and associated costs (goods and services, intra-agency, and indirect charges) \$1,000 each year.

Investigation

Section 2: The department will conduct an estimated eight (8) additional on-site inspections when a hospital has repeat violations. Tasks include the review of repeat violations, drafting an inspection report, tracking response(s) from the facility, meeting with facility management. To complete an onsite inspection, the department estimates two staff at an average of eight (8) hours including travel to the facility to complete the tasks related to onsite inspection: 1) inspection preparations; 2) travel; 3) onsite inspection; 4) inspection report writing; 5) responding to the facility's questions and reviewing a statement of corrections if necessary; and 6) management review and oversight.

Starting in FY 2023 and ongoing, total costs include staff and associated costs (goods and services, intra-agency, and indirect charges) will be 0.1 FTE and \$19,000 each year.

Enforcement:

Section 2: The enforcement process has two steps: 1) violation identification and 2) adjudication. Department staff review the history of the facility, assess whether an enforcement action is needed, and decides whether to pursue legal action. Staff attorneys, paralegals, assistant attorney general and other staff work to develop the legal documents and charge the violation. Most cases are settled, and the staff attorney manages that process.

However, if the respondent asks for a hearing, staff must schedule the hearing, and the health law judge considers all legal motions, presides over the hearing, and drafts the final order. Also, the Office of the Attorney General will represent the department at hearing and may provide advice throughout the enforcement process.

Starting in FY 2023 and ongoing costs include staff and associated costs (goods & services, intra-agency and indirect charges) and Office of the Attorney General support in the amount of \$21,000 per year, for a total of 0.1 FTE and \$37,000 each year.

Total costs to implement this bill:

FY 2022: 0.10 FTE and \$34,000 (General Fund-State)

FY 2023: 0.20 FTE and \$58,000 (Private/Local)

FY 2024 and ongoing: 0.20 FTE and \$57,000 (Private/Local)

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
001-1	General Fund	State	34,000	0	34,000	0	0
001-7	General Fund	Private/Local	0	58,000	58,000	114,000	114,000
Total \$			34,000	58,000	92,000	114,000	114,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.1	0.2	0.2	0.2	0.2
A-Salaries and Wages	15,000	23,000	38,000	44,000	44,000
B-Employee Benefits	5,000	7,000	12,000	14,000	14,000
C-Professional Service Contracts	6,000		6,000		
E-Goods and Other Services	7,000	25,000	32,000	50,000	50,000
G-Travel		1,000	1,000	2,000	2,000
T-Intra-Agency Reimbursements	1,000	2,000	3,000	4,000	4,000
9-					
Total \$	34,000	58,000	92,000	114,000	114,000

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
HEALTH SERVICES CONSULTANT 1	54,108		0.1	0.1	0.1	0.1
NURSING CONSULTATION ADVISOR	142,716	0.1	0.1	0.1	0.1	0.1
Total FTEs		0.1	0.2	0.2	0.2	0.2

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

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

Section 2(b)(iii): The department shall adopt rules in WAC 246-320 (Hospital Licensing Regulations) specific fine amounts in relation to: a) the severity of the noncompliance and at the adequate level to be a deterrent to future noncompliance; and b) the number of licensed beds and the operation size of the hospital.