

Multiple Agency Fiscal Note Summary

Bill Number: 5172 S SB	Title: Overtime claim retroactivity
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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	146,000	0	0	73,000	0	0	0
Office of Administrative Hearings	0	0	150,740	0	0	150,740	0	0	150,740
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	296,740	0	0	223,740	0	0	150,740

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
Administrative Office of the Courts	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of Attorney General	.5	0	0	146,000	.3	0	0	73,000	.0	0	0	0
Office of Administrative Hearings	.6	0	0	150,740	.6	0	0	150,740	.6	0	0	150,740
Department of Labor and Industries	5.3	0	0	3,636,000	5.1	0	0	1,529,000	4.3	0	0	944,000
Department of Labor and Industries	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Total \$	6.4	0	0	3,932,740	6.0	0	0	1,752,740	4.9	0	0	1,094,740

Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

Prepared by: Anna Minor, OFM	Phone: (360) 790-2951	Date Published: Final 3/ 2/2021
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Judicial Impact Fiscal Note

Bill Number: 5172 S SB	Title: Overtime claim retroactivity	Agency: 055-Administrative Office of the Courts
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☒ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

Legislative Contact: Matthew Shepard-Koningsor	Phone: 360-786-7627	Date: 02/16/2021
Agency Preparation: Sam Knutson	Phone: 360-704-5528	Date: 02/18/2021
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 02/18/2021
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 02/18/2021

166,361.00

Request # 5172 SSB-1

Form FN (Rev 1/00)

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Bill # 5172 S SB

Part II: Narrative Explanation

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

Please see attached Judicial Impact Note (JIN).

II. B - Cash Receipts Impact

II. C - Expenditures

Part III: Expenditure Detail

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

NONE

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

NONE

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

NONE

III. D - FTE Detail

NONE

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B1 - Expenditures by Object Or Purpose (State)

NONE

IV. B2 - Expenditures by Object Or Purpose (County)

NONE

IV. B3 - Expenditures by Object Or Purpose (City)

NONE

IV. C - Capital Budget Breakout

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

NONE

Part II: Narrative Explanation

This bill would prohibit a retroactive award in payments if it would result in a substantially inequitable result in causes of action for overtime pay.

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

Section 2 – Would provide that in any cause of action filed in court on or after October 11, 2017 and before June 20, 2024 seeking overtime pay under the provisions of RCW 49.46.130 the employer and any other person alleged to be liable for overtime pay shall have an affirmative defense to any claim or cause of action for recovery of wages, damages, statutory penalties, or civil penalties, actual damages, and attorney's fees and costs based solely upon the employers failure to pay an employee overtime pay.

II.B - Cash Receipt Impact

None.

II.C – Expenditures

Judicial education would be required. This would be managed within existing resources.

Individual State Agency Fiscal Note

Revised

Bill Number: 5172 S SB	Title: Overtime claim retroactivity	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	73,000	73,000	146,000	73,000	
Total \$	73,000	73,000	146,000	73,000	

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.5	0.5	0.5	0.3	0.0
Account					
Legal Services Revolving Account-State 405-1	73,000	73,000	146,000	73,000	0
Total \$	73,000	73,000	146,000	73,000	0

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: Matthew Shepard-Koningsor	Phone: 360-786-7627	Date: 02/16/2021
Agency Preparation: Stacia Hollar	Phone: (360) 664-0865	Date: 02/19/2021
Agency Approval: Dianna Wilks	Phone: 360-709-6463	Date: 02/19/2021
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 02/23/2021

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 2 creates a new section in chapter 49.46 RCW to provide an affirmative defense in wage overpayment cases.

Section 3 amends RCW 49.46.130 to delete the exemption of agricultural workers from the requirement to pay time and a half for time worked in excess of 40 hours per week.

Section 4 creates a new section in chapter 49.48 RCW addressing overtime payments for agricultural workers.

Section 5 creates a new section in chapter 49.48 RCW to create an agricultural overtime payment account in the custody of the state treasurer.

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 Labor & Industries. 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. 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.
3. Agency administration support FTE are included in the tables below, using a Management Analyst 5 as a representative classification.

Assumptions for the AGO Labor & Industries Division's (LNI) Legal Services for the Department of Labor & Industries (L&I):

1. The AGO will bill L&I for legal services based on the enactment of this bill.
2. L&I anticipates 550 additional complaints based on the enactment of this law.
3. Notice of Assessment (NOA) and Appeals: Based on FY 2019 wage claim figures, approximately 9.6 percent of completed wage claim investigations result in a NOA of Wages owed (5,458 completed investigations / 527 NOAs issued). In this context, that means that an estimated 53 citations (rounded) will result from L&I investigations. The appeal rate for comparable NOAs is 20 percent. 20 percent of 53 is 11 appeals (rounded)).
4. Determination of Compliance (DOC) and Appeals: Based on FY 2019 wage claim figures, approximately 4.8 percent of completed wage claim investigations result in a DOC (5,458 completed investigations / 264 NOAs). Applying this rate to the number of investigations to be conducted yields 26 such DOCs. The appeal rate for DOCs is 0.09, which will results in two new appeals (rounded) for this bill.
5. Appeals of this complexity are assumed to require 0.2 Assistant Attorney General (AAG) per 10 cases. AAGs will also need to provide immediate complex legal advice for implementation and policy making. Using figures based on current AAG FTE for Wage Payment Act legal services and including additional advice, LNI assumes this law will require an additional 0.3 AAG related to appeals and implementation until July 1, 2024.
6. LNI assumes that most significant costs will conclude by July 1, 2024 and the AGO's employment standards program will be able to provide future legal services with existing resources.
7. Total workload impact in FY 2022, FY 2023, and FY 2024: 0.3 AAG and 0.15 LA at a cost of \$73,000 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	73,000	73,000	146,000	73,000	0
Total \$			73,000	73,000	146,000	73,000	0

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.5	0.5	0.5	0.3	
A-Salaries and Wages	47,000	47,000	94,000	47,000	
B-Employee Benefits	15,000	15,000	30,000	15,000	
E-Goods and Other Services	9,000	9,000	18,000	9,000	
G-Travel	1,000	1,000	2,000	1,000	
J-Capital Outlays	1,000	1,000	2,000	1,000	
Total \$	73,000	73,000	146,000	73,000	0

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
Assistant Attorney General	108,600	0.3	0.3	0.3	0.2	
Legal Assistant 3	54,108	0.2	0.2	0.2	0.1	
Management Analyst 5	88,644	0.1	0.1	0.1	0.0	
Total FTEs		0.5	0.5	0.5	0.3	0.0

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Labor & Industries Division (LNI)	119,000	119,000	238,000	119,000	
Total \$	119,000	119,000	238,000	119,000	

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: 5172 S SB	Title: Overtime claim retroactivity	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	75,370	75,370	150,740	150,740	150,740
Total \$	75,370	75,370	150,740	150,740	150,740

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.6	0.6	0.6	0.6	0.6
Account					
Administrative Hearings Revolving Account-State 484-1	75,370	75,370	150,740	150,740	150,740
Total \$	75,370	75,370	150,740	150,740	150,740

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: Matthew Shepard-Koningsor	Phone: 360-786-7627	Date: 02/16/2021
Agency Preparation: Deborah Feinstein	Phone: 360-407-2717	Date: 02/23/2021
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 02/23/2021
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 02/23/2021

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 3 amends RCW 49.46.130 regarding overtime pay to remove the overtime exemption for farm workers, commercial delivery workers, and processors of agricultural or horticultural commodities.

Section 4 makes Section 3 retroactive, allowing employers an affirmative defense to liability if they pay as much as the last three years of overtime pay with interest. It requires employers to locate and pay employees all earned overtime, or pay it to the Department of Labor and Industries if the employee(s) cannot be located.

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 project that the proposed legislation will result in about 13 new appeals per year beginning in FY 2022. These appeals would be heard by the Office of Administrative Hearings (OAH).

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

Workforce Assumptions:

- * Ratio of 1 line ALJ to .15 Senior ALJ to 0.6 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: 0.28 FTE Administrative Law Judge at a cost of \$42,852; 0.04 FTE Senior Administrative Law Judge at a cost of \$6,797; 0.17 FTE Legal Assistant 2 at a cost of \$15,847. Agency administrative support is included using 0.07 FTE of a Management Analyst 5 as a representative at a cost of \$9,874. Total cost: \$75,370.

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	75,370	75,370	150,740	150,740	150,740
Total \$			75,370	75,370	150,740	150,740	150,740

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.6	0.6	0.6	0.6	0.6
A-Salaries and Wages	46,454	46,454	92,908	92,908	92,908
B-Employee Benefits	16,540	16,540	33,080	33,080	33,080
C-Professional Service Contracts					
E-Goods and Other Services	11,200	11,200	22,400	22,400	22,400
G-Travel	504	504	1,008	1,008	1,008
J-Capital Outlays	672	672	1,344	1,344	1,344
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	75,370	75,370	150,740	150,740	150,740

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	0.3	0.3	0.3	0.3	0.3
Legal Assistant 2	48,996	0.2	0.2	0.2	0.2	0.2
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		0.6	0.6	0.6	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

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: 5172 S SB	Title: Overtime claim retroactivity	Agency: 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 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	5.3	5.3	5.3	5.1	4.3
Account					
Accident Account-State 608-1	2,285,000	805,000	3,090,000	1,298,000	802,000
Medical Aid Account-State 609-1	403,000	143,000	546,000	231,000	142,000
Total \$	2,688,000	948,000	3,636,000	1,529,000	944,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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: Matthew Shepard-Koningsor	Phone: 360-786-7627	Date: 02/16/2021
Agency Preparation: Donald Jenson Jr	Phone: 360-902-6981	Date: 03/02/2021
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 03/02/2021
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 03/02/2021

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.

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 2022	FY 2023	2021-23	2023-25	2025-27
608-1	Accident Account	State	2,285,000	805,000	3,090,000	1,298,000	802,000
609-1	Medical Aid Account	State	403,000	143,000	546,000	231,000	142,000
Total \$			2,688,000	948,000	3,636,000	1,529,000	944,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	5.3	5.3	5.3	5.1	4.3
A-Salaries and Wages	329,000	329,000	658,000	634,000	560,000
B-Employee Benefits	134,000	134,000	268,000	256,000	222,000
C-Professional Service Contracts	1,701,000	239,000	1,940,000	303,000	
E-Goods and Other Services	459,000	231,000	690,000	306,000	132,000
G-Travel	15,000	15,000	30,000	30,000	30,000
J-Capital Outlays	50,000		50,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	2,688,000	948,000	3,636,000	1,529,000	944,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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
Customer Service Specialist 2	45,504	1.0	1.0	1.0	0.8	
Fiscal Analyst 5	69,264	0.3	0.3	0.3	0.3	0.3
Industrial Relations Agent 2	64,332	2.0	2.0	2.0	2.0	2.0
Industrial Relations Agent 3	67,560	2.0	2.0	2.0	2.0	2.0
Total FTEs		5.3	5.3	5.3	5.1	4.3

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

Part II: Explanation

This bill relates to retroactivity of overtime claims in exceptional cases, amending RCW 49.46.130, adding new sections to RCW 49.46 and RCW 49.48, and creating a new section.

The differences between SSB 5172 and SB 5172 include:

- Allowing for retroactive overtime to be collected for three years for agricultural employees.
- Removing the agricultural overtime exemption from the Minimum Wage Act.
- Creating an agricultural overtime pay reimbursement account.
- Requiring the Department of Labor and Industries (L&I) to create a new committee.

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

Section 3 amends RCW 49.46.130 removing the agricultural employee overtime exemption from the Minimum Wage Act, RCW 49.46.130(2)(g).

Section 4 adds a new section to RCW 49.48 specifying that any action seeking overtime because of the elimination of the agricultural overtime exemption in RCW 49.46.130 operates retroactively.

- Agricultural employers may elect to make payment, including 12 percent interest per year from the effective date of this section, for previously uncompensated overtime for the three years before the effective date of this section.
- Agricultural employers must provide L&I with supporting records of the employees entitled to this compensation.

Section 5 adds a new section to RCW 49.48 to create an agricultural overtime reimbursement account with the state treasurer. All receipts from employers in section 4 must be deposited into the account. Expenditures from the account can only be used for the purposes of subsection 1 and 2 of this section. Only L&I can authorize expenditures from the account.

- An employee may apply to L&I to receive payments owed under this section.

- Any moneys in the account as of June 30, 2024 shall be distributed on behalf of agricultural workers as directed by a committee selected and chaired by L&I.

II. B – Cash Receipt Impact

Receivables-Non-appropriated

Section 4 of the bill allows agricultural employers to pay into a new fund called the agricultural overtime reimbursement account. L&I has no way to predict how much money will be received in the account. Therefore, the cash receipt impact is indeterminate.

Receivables-Operating

The bill requires penalties received by L&I to be deposited in the Supplemental Pension Fund, fund 881. L&I has the authority to issue penalties. However, the dollar amounts of the penalties can vary. L&I has no way to predict the amounts of each citation under this bill. Therefore, the cash receipt impact is indeterminate.

II. C – Expenditures

Appropriated -Operating Costs

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

2.0 FTE, Industrial Relations Agent 2 (IRA2) bilingual, permanent, beginning July 1, 2021.

Duties include investigating overtime wage complaints from agricultural workers who file complaints under this bill. This is based on the following assumptions:

- There are 275,000 agricultural workers in the State.
- The complaint rate for wage complaints is .002
- 550 complaints are expected annually. (275,000 workers X .002 complaint rate = 550)
- The average IRA2 handles 240 wage complaints per year.

- Therefore, 2 IRA2s are needed. ($550 \text{ complaints} / 240 \text{ per IRA2} = 2.3 \text{ FTE}$)

2.0 FTE, Industrial Relations Agent 3 bilingual, permanent, beginning July 1, 2021. Duties include statewide outreach and education to agricultural employers and employees. Removing the overtime exemption for agricultural workers will require large-scale outreach to educate employers and employees about their obligations and rights, including the aspects of the agricultural overtime reimbursement account. The education and outreach is expected to be ongoing.

1.0 FTE, Customer Service Specialist 2 bilingual, temporary from July 1, 2021 through December 31, 2024. Duties include collecting, organizing and storing agricultural wage data required to be submitted to the department under section 4 of the bill.

Sections 4 and 5 of the bill create an opportunity for agricultural employers to pay into the newly created agricultural overtime reimbursement account. L&I is responsible for accepting applications for and distributing payments from the account. However, L&I has no way to predict how many applications it might receive. Therefore, staff needed to implement this part of the bill is indeterminate. Here is an estimate based on assuming five percent of the eligible workers apply for payments:

- 275,000 agricultural workers in the State.
- Assume 5 percent apply for funds from the account.
- 13,750 worker applications to process. ($275,000 \times .05 = 13,750$)
- Each application would take 15 minutes to process.
- 3,438 worker hours necessary to process the applications. ($13,750 \times .25 = 3,437.5$)
- 3,438 hours equates to 1.6 FTE ($3,438 / 2088 = 1.6$)

Information Technology New Applications/Systems

Contract developers will be required to modify and enhance multiple internal systems, including the My L&I application, and Front Counter system. Contract developers will also be required to build a new Overtime Collection Tool (OCT) related to sections 4 and 5 of the bill. After development, contractors will need to provide maintenance and support to OCT through June 30,

2024. Quality Assurance (QA), software, and server infrastructure costs are also required for this effort.

A total of \$1,939,938 is needed in the 2021-23 biennium for all information technology changes.

This includes:

- Contractor costs – \$1,803,738 is needed for 14,362 contractor hours (\$240,120 for 2,088 hours in fiscal year 2024, \$58,650 for 510 hours in fiscal year 2025)
- Quality Assurance – \$118,000
- Software – \$11,000
- Server infrastructure – \$7,200 (\$3,600 in fiscal years 2024)

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.

Marketing and Outreach

\$200,000 for advertising and outreach will be necessary during the 21-23 biennium to effectively implement this bill, which creates new requirements for agricultural employers and new rights for agricultural employees, using a coordinated campaign of paid advertising and outreach.

Printing

\$2,831 is needed during the 21-23 biennium for printing costs to assist with marking and outreach for:

- 20,000 brochures
- 20,000 flyers

Attorney General-Legal Services

\$73,000 per fiscal year, for fiscal years 2022 through 2024, is needed for legal services related to implementation and appeals. Resources needed are 0.3 Assistant Attorney General and 0.15 Legal Assistant.

Administrative Hearings

\$75,000 is needed for 13 administrative rule hearings each year for fiscal years 2022 through 2024.

Indirect Costs

The amount included in this fiscal note for indirect is:

Fund Name		FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
608	Accident	29,000	29,000	29,000	26,000	23,000	23,000
609	Medical Aid	5,000	5,000	5,000	4,000	4,000	4,000
	Total:	\$34,000	\$34,000	\$34,000	\$30,000	\$27,000	\$27,000

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

None.