

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5172 E S SB AMH HOFF TANG 109	<b>Title:</b> Agricultural overtime
--	-------------------------------------

## 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	75,370	0	0	0
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
<b>Total \$</b>	<b>0</b>	<b>0</b>	<b>296,740</b>	<b>0</b>	<b>0</b>	<b>148,370</b>	<b>0</b>	<b>0</b>	<b>0</b>

## 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	.3	0	0	75,370	.0	0	0	0
Department of Labor and Industries	4.0	0	0	1,445,000	4.3	0	0	1,092,000	4.3	0	0	944,000
<b>Total \$</b>	<b>5.1</b>	<b>0</b>	<b>0</b>	<b>1,741,740</b>	<b>4.9</b>	<b>0</b>	<b>0</b>	<b>1,240,370</b>	<b>4.3</b>	<b>0</b>	<b>0</b>	<b>944,000</b>

## 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
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

# Estimated Capital Budget Breakout

<b>Prepared by:</b> Anna Minor, OFM	<b>Phone:</b> (360) 790-2951	<b>Date Published:</b> Final 4/21/2021
-------------------------------------	---------------------------------	---

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5172 E S SB AMI HOFF TANG 109	<b>Title:</b> Agricultural overtime	<b>Agency:</b> 055-Administrative Office of the Courts
--	-------------------------------------	---

## 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 for 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.

Contact	Phone:	Date: 04/16/2021
Agency Preparation: Sam Knutson	Phone: 360-704-5528	Date: 04/19/2021
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 04/19/2021
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 04/19/2021

169,753.00

Request # 5172 STRK-1

Form FN (Rev 1/00)

1

Bill # 5172 E S SB AMH HOFF TANG 109

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 phase in overtime pay requirements for certain agricultural employees, and would prohibit the award of damages or other relief to agricultural employees seeking unpaid overtime due under the overtime statute as it existed on November 4, 2020.

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

Would provide that no damages, statutory or civil penalties, attorneys' fees and costs, or other type of relief may be granted against an employer to an agricultural employee seeking unpaid overtime due to the agricultural employee's historical exclusion from overtime under RCW 49.46.130(2)(g), as it existed on November 4, 2020; would provide that this section applies retroactively to claims, causes of action, and proceedings filed after November 5, 2020 regardless of when the cause of action or claim arose, and before the effective date of this section; and this section does not apply to agricultural employees entitled to back pay or other relief as a result of being a member in the class of plaintiffs in *Martinez-Cuevas v DeRuyter Bros. Dairy*.

### **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

<b>Bill Number:</b> 5172 E S SB AMH HOFF TANG 109	<b>Title:</b> Agricultural overtime	<b>Agency:</b> 100-Office of Attorney General
---	-------------------------------------	---

## 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	
<b>Total \$</b>	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
<b>Account</b>					
Legal Services Revolving Account-State 405-1	73,000	73,000	146,000	73,000	0
<b>Total \$</b>	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:	Phone:	Date: 04/16/2021
Agency Preparation: Stacia Hollar	Phone: (360) 664-0865	Date: 04/19/2021
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 04/19/2021
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 04/20/2021

## 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 states the legislative intent to address agricultural worker exemption from overtime and minimum wage standards.

Section 2 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. The section defines agricultural and dairy employees.

### 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 initially effective 90 days after the end of the 2021 legislative session with Section 7 becoming effective January 1, 2024.
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 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
<b>Total \$</b>			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	
<b>Total \$</b>	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	
<b>Total FTEs</b>		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)	73,000	73,000	146,000	73,000	
<b>Total \$</b>	73,000	73,000	146,000	73,000	

## 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

Revised

<b>Bill Number:</b> 5172 E S SB AMH HOFF TANG 109	<b>Title:</b> Agricultural overtime	<b>Agency:</b> 110-Office of Administrative Hearings
---	-------------------------------------	---

## 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	75,370	
<b>Total \$</b>	75,370	75,370	150,740	75,370	

### Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.6	0.6	0.6	0.3	0.0
<b>Account</b>					
Administrative Hearings Revolving Account-State 484-1	75,370	75,370	150,740	75,370	0
<b>Total \$</b>	75,370	75,370	150,740	75,370	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:	Phone:	Date: 04/16/2021
Agency Preparation: Deborah Feinstein	Phone: 360-407-2717	Date: 04/21/2021
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 04/21/2021
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 04/21/2021

## 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.*

Engrossed Substitute Senate Bill 5172 AMH HOFF TANG 109:

Unlike the engrossed substitute version of the legislation, ESSB 5172 AMH HOFF TANG 109 has all alterations to the agricultural employee exemption to overtime pay in Section 2, modifying RCW 49.46.130. The exemption remains in its entirety for “agricultural employees” until December 31, 2021. The phase in is the same as the prior version of the bill. Beginning January 1, 2022, the exemption is removed for agricultural employees working 55 hours or more a week. Beginning January 1, 2023, the exemption is further scaled back for agricultural employees working 48 or more hours each week. On January 1, 2024, the exemption is removed altogether.

### 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 for FY 2022-FY 2024. This bill creates a new class of wage claimants who are eligible to file wage claims and then appeals of the outcomes of those wage claims. 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, FY 2023 and FY 2024: 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	75,370	0
Total \$			75,370	75,370	150,740	75,370	0

### 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	0.3	
A-Salaries and Wages	46,454	46,454	92,908	46,454	
B-Employee Benefits	16,540	16,540	33,080	16,540	
C-Professional Service Contracts					
E-Goods and Other Services	11,200	11,200	22,400	11,200	
G-Travel	504	504	1,008	504	
J-Capital Outlays	672	672	1,344	672	
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	75,370	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
Administrative Law Judge	98,000	0.3	0.3	0.3	0.1	
Legal Assistant 2	48,996	0.2	0.2	0.2	0.1	
Management Analyst 5	88,644	0.1	0.1	0.1	0.0	
Senior Administrative Law Judge	112,000	0.0	0.0	0.0	0.0	
Total FTEs		0.6	0.6	0.6	0.3	0.0

### 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

<b>Bill Number:</b> 5172 E S SB AMH HOFF TANG 109	<b>Title:</b> Agricultural overtime	<b>Agency:</b> 235-Department of Labor and Industries
---	-------------------------------------	--

## 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	3.7	4.3	4.0	4.3	4.3
<b>Account</b>					
Accident Account-State 608-1	701,000	527,000	1,228,000	928,000	802,000
Medical Aid Account-State 609-1	124,000	93,000	217,000	164,000	142,000
<b>Total \$</b>	825,000	620,000	1,445,000	1,092,000	944,000

### 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:	Phone:	Date: 04/16/2021
Agency Preparation: Donald Jenson Jr	Phone: 360-902-6981	Date: 04/21/2021
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 04/21/2021
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 04/21/2021

## 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	701,000	527,000	1,228,000	928,000	802,000
609-1	Medical Aid Account	State	124,000	93,000	217,000	164,000	142,000
Total \$			825,000	620,000	1,445,000	1,092,000	944,000

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

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	3.7	4.3	4.0	4.3	4.3
A-Salaries and Wages	246,000	280,000	526,000	560,000	560,000
B-Employee Benefits	97,000	111,000	208,000	222,000	222,000
C-Professional Service Contracts					
E-Goods and Other Services	429,000	214,000	643,000	280,000	132,000
G-Travel	13,000	15,000	28,000	30,000	30,000
J-Capital Outlays	40,000		40,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	825,000	620,000	1,445,000	1,092,000	944,000

### 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
Fiscal Analyst 5	69,264	0.2	0.3	0.3	0.3	0.3
Industrial Relations Agent 2	64,332	1.5	2.0	1.8	2.0	2.0
Industrial Relations Agent 3	67,560	2.0	2.0	2.0	2.0	2.0
Total FTEs		3.7	4.3	4.0	4.3	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, and creating a new section.

The differences between ESSB 5172 AMH HOFF TANG 109 and ESSB 5172 include:

- Placing the provisions on phased-in overtime, retroactive claims, and the expiration of the overtime exemption into one section.
- Specifying that the retroactivity applies to claims, causes of action, and proceedings commenced on or after November 5, 2020, regardless of when the claim or cause of action arose, and that in all other respects, it applies proactively.
- Clarifying the definition of a dairy employee.

These changes do not change the fiscal impact to the Department of Labor and Industries.

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

**Section 2** amends RCW 49.46.130 removing the agricultural employee overtime exemption from the Minimum Wage Act, RCW 49.46.130(2)(g). The exemption from subsection 1 applies until December 31, 2021.

**Section 2** adds new subsections to RCW 49.46.130:

- Specifying that beginning January 1, 2022, agricultural employees, other than dairy workers, are entitled to overtime for hours worked over 55 hours in a workweek.
- Specifying that beginning January 1, 2023, agricultural employees, other than dairy workers, are entitled to overtime for hours worked over 48 hours in a workweek.
- Specifying that beginning January 1, 2024, agricultural employees, other than dairy workers, are entitled to overtime for hours worked over 40 hours in a workweek.
- Specifying that no damages, statutory or civil penalties, attorneys' fees and costs, or other type of relief may be granted against an employer to an agricultural or dairy employee seeking unpaid overtime due to the employee's historical exclusion from overtime under subsection 2(g) of this section, as it existed on November 4, 2020.

- Specifying that the retroactivity applies to claims, causes of action, and proceedings commenced on or after November 5, 2020, regardless of when the claim or cause of action arose, and that in all other respects, it applies proactively.
- Specifying this subsection does not apply to dairy employees entitled to backpay or other relief as a result of being a member in the class of plaintiffs in *Martinez-Cuevas v DeRuyter Bros Dairy*.
- Defining agricultural employee and dairy employee.

## **II. B – Cash Receipt Impact**

### **Receivables-Operating**

The penalties received by L&I related to enforcing this bill are 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 October 1, 2021. Duties include investigating overtime wage complaints from agricultural workers who file complaints under this bill. This is based on the following assumptions:

- Dairy workers will be eligible for overtime immediately.
- There are 275,000 potential wage complainants from agricultural employees in the State.

To estimate the number of potential complaints:

- Employment Security Department data was reviewed.
  - Third quarter data was used since it tends to be the highest employment.
  - Employment at the beginning of the quarter is typically around 125,000.
  - Throughout the quarter, employers make an additional 120,000 – 125,000 hires.
  - These are not all unique individuals brought on payrolls for the entire quarter.
  - Many are workers moving from harvest to harvest.
  - However, these represent distinct employee-employer relationships that may result in a wage complaint.
- The complaint rate for wage complaints is .002
  - 550 complaints are expected annually. (275,000 potential complaints X .002 complaint rate = 550)
  - The average IRA2 handles 240 wage complaints per year.
  - Therefore, 2 IRA2s are needed. (550 complaints / 240 per IRA2 = 2.3 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. The education and outreach is expected to be ongoing.

### **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	20,000	23,000	23,000	23,000	23,000	23,000
609	Medical Aid	3,000	4,000	4,000	4,000	4,000	4,000
	Total:	\$23,000	\$27,000	\$27,000	\$27,000	\$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.