

Multiple Agency Fiscal Note Summary

Bill Number: 1868 HB	Title: Health care staffing
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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	123,000	0	0	246,000	0	0	246,000
Office of Administrative Hearings	0	0	46,687	0	0	93,374	0	0	93,374
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	169,687	0	0	339,374	0	0	339,374

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	.4	0	0	123,000	.9	0	0	246,000	.9	0	0	246,000
Office of Administrative Hearings	.2	0	0	46,687	.3	0	0	93,374	.3	0	0	93,374
Department of Labor and Industries	4.6	0	0	3,208,000	8.5	0	0	4,739,000	8.5	0	0	2,790,000
Department of Social and Health Services	Fiscal note not available											
Department of Health	.0	0	0	0	.0	0	0	0	.0	0	0	0
University of Washington	.0	0	0	0	353.2	115,209,244	115,209,244	115,209,244	934.1	276,902,707	276,902,707	276,902,707
Total \$	5.2	0	0	3,377,687	362.9	115,209,244	115,209,244	120,287,618	943.8	276,902,707	276,902,707	280,032,081

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
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Department of Social and Health Services	Fiscal note not available								
Department of Health	.0	0	0	.0	0	0	.0	0	0
University of Washington	.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: Preliminary 1/27/2022
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Individual State Agency Fiscal Note

Bill Number: 1868 HB	Title: Health care staffing	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		123,000	123,000	246,000	246,000
Total \$		123,000	123,000	246,000	246,000

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	0.9	0.4	0.9	0.9
Account					
Legal Services Revolving Account-State 405-1	0	123,000	123,000	246,000	246,000
Total \$	0	123,000	123,000	246,000	246,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact . Factors impacting the precision of these estimates , and alternate ranges (if appropriate) , are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Trudes Tango	Phone: 360-786-7384	Date: 01/13/2022
Agency Preparation: Amy Flanigan	Phone: 509-456-3123	Date: 01/20/2022
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 01/20/2022
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 01/26/2022

Part II: Narrative Explanation

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

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This act relates to improving worker safety and patient care in health care facilities by addressing several working conditions.

Section 1 – Amends RCW 70.41.410 – Adds and changes definitions.

Section 2 – New Section – Sets forth minimum staffing standards for hospitals and establishes the Department of Labor and Industries (L&I) as department to enforce.

Section 3 – Amends RCW 70.41.420 – Requires establishment of staffing committee for hospitals by September 1, 2022. Sets forth rules for composition of the committee as well as duties and record requirements.

Section 4 – Amends RCW 70.41.425 – Requires L&I to investigate complaints submitted as violations of RCW 70.41.420. If L&I determines there as a violation, L&I must oversee corrective plan of action and may impose civil penalties. Also requires L&I to report violations on its website.

Section 5 – New Section – Requires L&I to review each hospital staffing plan for compliance with statute. L&I will monitor for violations and assess civil penalties and post violations on its website.

Section 6 – Amends RCW 49.12.480 – Makes changes to meal and rest break requirements.

Section 7 – Amends RCW 49.28.130 – Amends certain definitions.

Section 8 – Amends RCW 49.28.140 – Changing time limits for on call time and rules for employee retention efforts.

Section 9 – Amends RCW 49.28.150 – Requires L&I to investigate complaints of violations of RCW 49.28.140 as set forth in section 10 of this Act.

Section 10 – New Section – Includes investigation requirements for L&I, including timelines, and L&I responses at the end of an investigation. Gives L&I authority to assess civil penalties.

Section 11 – New Section – Includes rights of appeal to those aggrieved by a citation or notice of assessment. Rules for review – including application of chapter 34.05 RCW.

Section 12 – New Section – States that collections of unpaid penalties are governed by RCW 49.48.086.

Section 13 – New Section – Allows employees or labor organizations to bring civil action against health care facility or hospital and setting out relief available.

Section 14 – New Section – Allows L&I to adopt and implement rule making for purposes of this chapter.

Section 15 – Repeals 2017 c 249 s 4.

Section 16 – Specified sections are a new chapter in Title 49 RCW.

Section 17 – Recodifications.

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 (L&I). 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.

The Attorney General’s Office (AGO) Agency Assumptions:

Agency administration support FTE are included in the tables, for every one Assistant Attorney General (AAG) FTE, the AGO includes a 0.5 Legal Assistant 3 (LA 3) FTE and a 0.25 Management Analyst 5 (MA 5) FTE. The MA 5 is used as a representative classification.

Total workload impact in this request includes standard assumption costs for good & services, travel, and capital outlays for all FTE identified.

The enactment of this bill will not impact the provision of legal services provided by the AGO’s Agriculture and Health Division (AHD) to the Department of Health (DOH). If this bill is enacted, it would transfer duties from the DOH to the Department of Labor & Industries (L&I). Any legal advice to the DOH would be nominal below 90 AAG hours per Fiscal Year (FY). Therefore, costs are not included in this request.

The enactment of this bill will not impact the provision of legal services to the University of Washington (UOW) by the AGO. Any legal advice to the UOW would be nominal below 90 AAG hours per FY. Therefore, costs are not included in this request. The AGO assumes that any Special Assistant Attorney General (SAAG) expenses will be included in the UOW’s fiscal note.

The L&I anticipates 283 additional health care related complaints. Historically 14 percent of completed investigations resulted in an appealable order. This rate will result in 40 final orders. The appeal rate for comparable notices of assessment is 20 percent. Based on these assumptions the AGO’s Labor and Industries (LNI) division anticipates to receive eight additional appeals per FY. Appeals of this complexity including immediate legal advice for implementation, policy making, and rulemaking require 0.5 AAG FTE per FY. Although the most significant implementation work will conclude by July 1, 2024, the ongoing work on these complex matters will require an ongoing 0.5 AAG FTE to address long-term client advice and litigation.

The LNI division and administration support total FTE assumptions (non-Seattle rate):

- FY 2023: \$123,000 / 0.5 AAG and 0.25 LA3.
- FY 2024: \$123,000 / 0.5 AAG and 0.25 LA3.
- FY 2025: \$123,000 / 0.5 AAG and 0.25 LA3.

- FY 2026: \$123,000 / 0.5 AAG and 0.25 LA3.
- FY 2027: \$123,000 / 0.5 AAG and 0.25 LA3, each FY thereafter.

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	0	123,000	123,000	246,000	246,000
Total \$			0	123,000	123,000	246,000	246,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		0.9	0.4	0.9	0.9
A-Salaries and Wages		80,000	80,000	160,000	160,000
B-Employee Benefits		27,000	27,000	54,000	54,000
C-Professional Service Contracts					
E-Goods and Other Services		14,000	14,000	28,000	28,000
G-Travel		1,000	1,000	2,000	2,000
J-Capital Outlays		1,000	1,000	2,000	2,000
Total \$	0	123,000	123,000	246,000	246,000

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	112,200		0.5	0.3	0.5	0.5
Legal Assistant 3	54,108		0.3	0.1	0.3	0.3
Management Analyst 5	88,644		0.1	0.1	0.1	0.1
Total FTEs			0.9	0.4	0.9	0.9

III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Labor & Industries Division (LNI)		123,000	123,000	246,000	246,000
Total \$		123,000	123,000	246,000	246,000

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: 1868 HB	Title: Health care staffing	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		46,687	46,687	93,374	93,374
Total \$		46,687	46,687	93,374	93,374

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	0.3	0.2	0.3	0.3
Account					
Administrative Hearings Revolving Account-State 484-1	0	46,687	46,687	93,374	93,374
Total \$	0	46,687	46,687	93,374	93,374

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact . Factors impacting the precision of these estimates , and alternate ranges (if appropriate) , are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Trudes Tango	Phone: 360-786-7384	Date: 01/13/2022
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 01/19/2022
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 01/19/2022
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 01/26/2022

Part II: Narrative Explanation

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

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Sections 6 and 7 expand the scope of who has protection for meal and break periods and wages.

The proposed legislation expands meal and break period protection to include hospital workers other than RNs and LPNs and continues the expansive definition of “hospital” that was effective as of 7 /1/2021.

Wage protection is similarly expanded to include employees of health care facilities in addition to RNs and LPNs and continues the expansive definition of “hospital” effective as of 7 /1/2021.

Section 11 allows anyone aggrieved by a citation and notice of assessment to appeal. These appeals will come to the Office of Administrative Hearings (OAH) for a hearing and an initial order.

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 & Industries (L&I) 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 Department of Labor and Industries estimates that the proposed legislation will result in 8 new appeals being referred to OAH per fiscal year beginning in FY 2023. On average, each appeal is expected to take approximately 30 hours of line administrative law judge (ALJ) time including prehearing conference, hearing, order writing, etc.

Office of Administrative Hearings (OAH) Agency Workforce Assumptions:

- (1) Ratio of 1.0 FTE line ALJ to 0.15 Senior ALJ to 0.6 Legal Assistant 2 (LA2) (Range 40 step L) to 0.25 administrative support Management Analyst 5 (MA5) (Range 64 Step L).
- (2) ALJ salary is based on the ALJ collective bargaining agreement and assumed to be at step L. (Line ALJ-range 70. Senior ALJ-range 74.)
- (3) Benefit rates were analyzed by job class using the latest benefit information available.
- (4) Goods and services, travel and on-going capital outlays were projected based on historical data for each of job classification.

Total Workload Impact:

Beginning in FY 2023 and each fiscal year thereafter : 0.17 FTE ALJ at a cost of \$26,710, 0.03 FTE Senior ALJ at a cost of \$5,091, 0.10 FTE Legal Assistant 2 at a cost of \$9,297, and 0.04 FTE Management Analyst 5 at a cost of \$5,589. Total cost: \$46,687.

This bill is assumed effective 90 days after the end of the 2020 legislative session.

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	0	46,687	46,687	93,374	93,374
Total \$			0	46,687	46,687	93,374	93,374

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		0.3	0.2	0.3	0.3
A-Salaries and Wages		29,330	29,330	58,660	58,660
B-Employee Benefits		9,839	9,839	19,678	19,678
C-Professional Service Contracts					
E-Goods and Other Services		6,800	6,800	13,600	13,600
G-Travel		310	310	620	620
J-Capital Outlays		408	408	816	816
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	46,687	46,687	93,374	93,374

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	102,816		0.2	0.1	0.2	0.2
Legal Assistant 2	48,996		0.1	0.1	0.1	0.1
Management Analyst 5	88,644		0.0	0.0	0.0	0.0
Senior Administrative Law Judge	113,484		0.0	0.0	0.0	0.0
Total FTEs			0.3	0.2	0.3	0.3

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

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

None.

Individual State Agency Fiscal Note

Bill Number: 1868 HB	Title: Health care staffing	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.
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Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	9.1	4.6	8.5	8.5
Account					
Accident Account-State 608-1	0	2,726,000	2,726,000	4,030,000	2,374,000
Medical Aid Account-State 609-1	0	482,000	482,000	709,000	416,000
Total \$	0	3,208,000	3,208,000	4,739,000	2,790,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Trudes Tango	Phone: 360-786-7384	Date: 01/13/2022
Agency Preparation: Shana J Snellgrove	Phone: 360-902-6408	Date: 01/21/2022
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 01/21/2022
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 01/21/2022

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	0	2,726,000	2,726,000	4,030,000	2,374,000
609-1	Medical Aid Account	State	0	482,000	482,000	709,000	416,000
Total \$			0	3,208,000	3,208,000	4,739,000	2,790,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		9.1	4.6	8.5	8.5
A-Salaries and Wages		631,000	631,000	1,190,000	1,190,000
B-Employee Benefits		242,000	242,000	456,000	456,000
C-Professional Service Contracts		1,771,000	1,771,000	2,398,000	480,000
E-Goods and Other Services		437,000	437,000	641,000	610,000
G-Travel		27,000	27,000	54,000	54,000
J-Capital Outlays		100,000	100,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	3,208,000	3,208,000	4,739,000	2,790,000

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
Administrative Regulations Analyst 4	82,344		1.0	0.5		
Fiscal Analyst 5	69,264		0.6	0.3	0.5	0.5
Industrial Relations Agent 2	64,332		2.2	1.1	2.2	2.2
Industrial Relations Agent 3	67,560		4.8	2.4	4.8	4.8
IT App Development - Journey	96,888		0.5	0.3	1.0	1.0
Total FTEs			9.1	4.6	8.5	8.5

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 .

See attached.

Part II: Explanation

This bill updates certain RCWs related to the regulation of workplace standards in hospitals and moves the oversight and enforcement from the Department of Health to the Department of Labor and Industries (L&I), including the following provisions: enforcement of safe staffing minimum standards, oversight of internal hospital staffing committees, and oversight and enforcement of the related complaint process. This bill also updates breaks and overtime protections for healthcare workers currently enforced by L&I.

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

Section 1 amends RCW 70.41.410 by updating definitions pertaining to sections 1, 2 and 5 of this bill, and RCW 70.41.410 and 70.41.425, unless clearly stated otherwise:

1. “Department” means L&I.
2. “Direct care nursing assistant-certified” and “nursing assistant-certified” means an individual certified under Chapter 18.88A RCW who provides direct patient care.
3. “Direct care registered nurse” and “registered nurse” means a nurse licensed under Chapter 18.79 RCW who provide direct patient care.
4. “Hospital” is defined in RCW 70.41.020 and includes state hospitals defined in RCW 72.23.010.
5. “Hospital staffing committee” means a committee established by a hospital as defined in RCW 70.41.020.
6. “Intensity” means level of patient need for nursing care, as determined by the nursing assessment.
7. “Nursing and ancillary health care personnel” has been updated to mean a person providing direct care or supportive services to patients.
8. "Patient care unit" means any unit or area of the hospital that provides patient care by registered nurses.
9. “Skill mix” has been updated to mean experience, number and relative percentages of nursing and ancillary health personnel.

Section 2 (new):

1. Establishes staffing standard requirements.

- (a) Hospitals shall comply with minimum staffing standards in accordance with this section.
 - (b) Requires L&I to enforce this section under sections 10 through 12 of this act.
- 2. Provides minimum staffing standards for direct care registered nurse to patient ratios per shift.
- 3. Provides minimum staffing standards for direct care nursing assistants-certified to patient ratios per shift.
- 4. Provides additional personnel assignment staffing limits.
- 5. Hospitals may assign fewer patients than listed in the maximum ratios.
- 6. Patient ratios established in this section do not decrease any nurse-to-patient staffing levels in current collective bargaining agreements and hospital staffing plans as of the effective date of this section.
- 7. Prior to assigning a direct care registered nurse or direct care nursing assistant-certified to a nursing unit or clinical area, they first shall receive orientation and demonstrate current competence for providing care in that area.
- 8. This subsection states:
 - (a) Within two years from the effective date of this section, hospitals shall develop and implement minimum staffing standards into a staffing plan as required under section 3, except as provided in (b) of this subsection.
 - (b) Within four years from the effective date of this section, the following hospitals shall develop and implement minimum staffing standards into a staffing plan as required under section 3:
 - i. Hospitals certified as critical access hospitals under 42 U.S.C. Sec. 1395i-4;
 - ii. Hospitals with fewer than 25 acute care beds in operation;
 - iii. Hospitals certified by the Centers for Medicare and Medicaid services as sole community hospitals as of January 1, 2013, that: have had less than 150 acute care licensed beds in fiscal year 2011; have a level III adult trauma service designation from the department of health as of January 1, 2014; and are owned and operated by the state or a political subdivision.

Section 3 amends RCW 70.41.420 by updating hospital staffing committee requirements currently enforced by Department of Health.

1. Requires all hospitals to establish staffing committees by September 1, 2022.
 - (a) A minimum of 50 percent of hospital staffing committees are to include non-supervisory/non-managerial nurses and ancillary healthcare personnel.
 - (b) Up to 50 percent shall include chief financial officer, the chief nursing officers, and patient care unit directors or managers.
2. All hospital staffing committees must occur during work hours and be compensated and additional staffing must be provided, if necessary, to ensure committee members can attend.
3. Provides committee responsibilities that include:
 - (a) Development and oversight of a patient care unit staffing plan as established in section 2 and using a standard format or form created by L&I.
 - (b) Semiannual review of staffing plans.
 - (c) Review, assess and respond to staffing complaints.
4. Hospital finances and resources must be taken into account.
5. Staffing plan must consider state and federal guidelines and collective bargaining agreements.
6. This subsection states:
 - (a) If annual staffing plan is not adopted prior annual staffing plans remain in effect and hospital is subject to daily fines of \$10,000 licensed under Chapter 70.41 RCW or \$100 for other specified hospital types.
 - (b) The chief executive officer must provide semiannual feedback.
 - (c) Each hospital shall submit staffing plan to L&I annually and when updated.
7. Each hospital shall implement their staffing plan.
 - (a) Any individual may report violations of the staffing plan to the staffing committee.
 - (b) Shift-to-shift adjustments may be made by appropriate hospital personnel. Complaints may be submitted to the staffing committee.
 - (c) Staffing committee shall develop a process to respond to complaints. All complaints must be reviewed without discrimination.

8. Each hospital shall post staffing plan in a public area on each patient care unit.
9. Hospitals may not retaliate against an employee for performing staffing committee duties, or retaliating against individuals for reporting concerns to the committee or administration.
10. This section is not intended to create unreasonable burdens on critical access hospitals under 42 U.S.C. Sec. 1395i-4.
11. Staffing committee must file a charter with L&I, which provides a number of requirements.

Section 4 amends RCW 70.41.425.

1. L&I shall investigate complaints for violations of RCW 70.41.420.
 - (a) Complaints must include documentation showing failure to:
 - i. Form or establish a hospital staffing committee;
 - ii. Conduct a semiannual review of a nurse staffing plan;
 - iii. Submit a nurse staffing plan on an annual basis and any updates; or
 - iv. Follow the nursing personnel assignments in a patient care unit in violation of RCW 70.41.420(7)(a) or shift-to-shift adjustments in staffing levels in violation of RCW 70.41.420(7)(b).
 - (b) Once L&I has completed an investigation, the hospital will have 45 days to submit a corrective plan of action.
 - (c) Hospitals will not be found in violation if:
 - i. There were unforeseen emergency circumstances; or
 - ii. The hospital, after consultation with the hospital staffing committee, documents reasonable efforts to obtain and retain staffing to meet required assignments but has been unable to do so.
 - (d) Hospital incident command shall report hospital needs to the staffing committee within 30 days of deviating from the staffing plan due to unforeseeable emergency circumstances. Deviation from staffing plan may not exceed 90 days without approval of hospital staffing committee who will develop the contingency staffing plan.

2. If a hospital fails to submit or follow a corrective plan of action, L&I may impose a daily violation of \$10,000 licensed under Chapter 70.41 RCW or \$100 for other specified hospital types until the hospital submits a corrective action plan that has been approved by L&I, and follows the corrective plan of action for 90 days. Once followed for 90 days L&I may reduce fines. Revenue from fines be deposited into the Supplemental Pension Fund established under RCW 51.44.033.
3. All records are subject to public disclosure and violations shall be publicly reported on L&I's website.
4. For purposes of this section, "unforeseeable emergency circumstance" means:
 - (a) Any unforeseen national, state, or municipal emergency;
 - (b) When a hospital disaster plan is activated;
5. Complaints can be submitted to L&I for violations of RCW 70.41.420 regardless of the provisions in this section.

Section 5 (new):

1. Requires L&I to review and confirm that all submitted staffing plans are completed in full and by the appropriate deadlines, and requires hospitals to fully complete staffing form in timely manner. Failure to submit staffing plans by the appropriate deadline will result in a violation and \$25,000 fine. Revenue from these fines are deposited into the Supplemental Pension Fund established under RCW 51.44.033.
2. Failure to submit a staffing committee charter to L&I by the deadline will result in a violation and \$25,000 civil penalty. Revenue from these fines are deposited into the Supplemental Pension Fund established under RCW 51.44.033.
3. Violations shall be publicly reported on L&I's website.

Section 6 amends RCW 49.12.480 by removing exceptions to the meal and rest break requirements and updating definitions of employee and employer. Updated requirement are:

1. An employer shall provide employees with meal and rest periods as required by law, subject to the following:
 - (a) Rest periods must be scheduled at any point during each work period during which the employee is required to receive a rest period.

- (b) Employers must provide employees with uninterrupted meal and rest breaks. This subsection (1)(b) does not apply in the case of an unforeseeable emergent circumstance, as defined in RCW 49.28.130.
- 2. The employer shall provide a mechanism to record when an employee misses a meal or rest period and maintain these records.
- 3. For purposes of this section, the following terms have the following meanings:
 - (a) "Employee" means a person who:
 - i. Is employed by an employer;
 - ii. Is involved in direct patient care activities or clinical services; and
 - iii. Receives an hourly wage or is covered by a collective bargaining agreement.
 - (b) "Employer" means hospitals licensed under chapter 70.41 RCW

Section 7 amends RCW 49.28.130 by updating definitions of employee, employer, health care facility, and unforeseen emergent circumstances.

Section 8 amends RCW 49.28.140 by updating prescheduled on-call time and chronic short staffing vacancies.

Section 9 amends RCW 49.28.150 to maintain L&I's requirement to investigate complaints of violations of RCW 49.28.140 as recodified by this act.

Section 10 (new):

- 1. L&I will investigate violation complaints. There is a three-year limitation from violation date. Determinations include: Citation and Notice of Assessment, or closure letter. Determinations are to be sent using mail tracking.
- 2. Closure letters are issued when no violation is found.
- 3. Violations include civil penalties. Except otherwise in this chapter, the maximum penalty is \$1,000 for each violation up to three violations, then \$2,500 for the fourth violation, and \$5,000 for each subsequent violation.

4. Civil penalties can be waived if L&I determines corrective action was taken to resolve the complaint.
5. Civil penalties are deposited in the Supplemental Pension Fund established under RCW 51.44.033.

Section 11 (new):

1. Citations and Notice of Assessments can be appealed to the director within 30 days of issuance. If no appeal is received within 30 days of issuance, the citation and Notice of Assessment become final and binding without subject to further appeal.
2. Notice of Appeal shall stay the effectiveness of the citation and Notice of Assessment pending final review.
3. If appealed, an administrative law judge from the Office of Administrative Hearings will be assigned by the director, and will be in accordance with Chapter 34.05 RCW. Initial orders can be challenged by filing a petition for administrative review to the director within 30 days of issuance.
4. The director shall issue final orders when appeals on initial orders are received.
5. Orders not appealed within 30 days are final and binding without subject to further appeal.
6. Employer records not provided throughout the investigation may not be used in an appeal.

Section 12 (new) states collections of unpaid citations assessing civil penalties will be pursuant to RCW 49.48.086.

Section 13 (new):

1. Healthcare facility workers covered under RCW 49.12.480 and 49.28.130 – 140, or their union representative, may file civil action.
2. Violations are deemed a personal injury.
3. The court may award:
 - (a) An amount ranging from \$100 to \$10,000 per violation per day;
 - (b) Reasonable attorney fees and litigation costs;

- (c) Other relief deemed appropriate.
- 4. Remedy is in addition to any administrative enforcement.

Section 14 (new) states L&I may adopt and implement rules for investigation and enforcement of this chapter including but not limited to retaliation protection.

Section 15 (new) repeals 2017 c 249 s 4 Uncodified.

Section 16 (new) states Sections 2, 5, and 10 through 14 of this act constitute a new chapter in Title 49 RCW.

Section 17 (new) recodifies RCWs 70.41.410, 70.41.420 and 70.41.425 to the new chapter in Title 49 RCW created in section 16.

Section 18 (new) recodifies RCWs 49.12.480, 49.28.130, 49.28.140 and 49.28.150 to the new chapter in Title 49 RCW created in section 16.

II. B – Cash Receipt Impact

Receivables – Operating

The proposed bill requires penalties received by L&I to be deposited in the Supplemental Pension Fund, fund 881.

- Section 5 allows L&I to issue penalties for hospitals that fail to submit staffing plans and staffing committee charters by the appropriate deadline. L&I doesn't know how many hospitals would fail to submit hospital staffing committee charters. Therefore, the cash receipt estimate for this section is **indeterminate**.
 - Hospitals failing to submit annual staffing plans or staffing committee charters to L&I are subject to a \$25,000 penalty.
 - There are approximately 133 hospitals in Washington.

- Based on the December 2020 [Department of Health's Nurse Staffing Report](#), 16 hospitals failed to provide their annual staffing plans in fiscal year 2020. It is unknown how many hospitals would fail to provide staffing committee charters.
- At minimum, it is estimated there would be \$400,000 per year. (16 hospitals x \$25,000 per violation for failure to provide annual staffing plans = \$400,000)
- Section 10 allows L&I to issue penalties for safe staffing violations. L&I does not currently have data predicting how many repeat violations there might be associated with this bill. Therefore, the cash receipt estimate for this section is **indeterminate**. At a minimum, using \$1,000 per violation, L&I estimates an annual increase to revenue.
 - 250 safe staffing complaints are anticipated per year (see expenditure section).
 - If the historical 14 percent of complaints results in violations, 35 complaints would result in violations. ($250 \times 0.14 = 35$)
 - The penalty is \$1,000 per violation up to three violations, then increases to \$2,500 for the fourth violation, and \$5,000 for the fifth and each subsequent violation.
 - For this fiscal analysis, it is assumed each violation will result in \$1,000.
 - $35 \text{ violations} \times \$1,000 \text{ per violation} = \$35,000$
- Section 10 allows L&I to issue penalties for meal and rest break violations. L&I does not currently have data predicting how many repeat violations there might be associated with this bill. Therefore, the cash receipt estimate for this section is **indeterminate**. At a minimum, using \$1,000 per violation, L&I estimates an annual increase to revenue.
 - 38 additional meal and rest break complaints are anticipated per year (see expenditure section).
 - If the historical 14 percent of complaints results in violations, about 5 complaints would result in violations. ($38 \times 0.14 = \text{about } 5$)
 - The penalty is \$1,000 per violation up to three violations, then increases to \$2,500 for the fourth violation, and \$5,000 for the fifth and each subsequent violation.
 - For this fiscal analysis, it is assumed each violation will result in \$1,000.
 - $5 \text{ violations} \times \$1,000 \text{ per violation} = \$5,000$

II. C – Expenditures

Appropriated – Operating Costs

This proposed 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

- 4.8 FTEs, Industrial Relations Agent (IRA) 3, permanent, starting July 1, 2022. Duties include conducting investigations into reports of improper medical staffing violations and additional meal and rest break violations.
 - L&I anticipates 250 complaints per year related to medical staffing violations.
 - Using the December 2020 [Department of Health’s Nurse Staffing Report](#), 104 reports of alleged violations were received by the Department of Health (DOH) who previously had enforcement over nursing safe staffing requirements.
 - Based on information provided by DOH, one complaint received by DOH could list dozens of impacted nurses.
 - L&I would have to receive complaints from each individual.
 - Although the report states that 31 complaints were received, we are using 104 as the starting point based on the changes to current law in this bill and our requirement that we receive complaints from each individual.
 - L&I is assuming that the number of complaints was underreported due to the COVID-19 pandemic, and this bill provides broader protections related to nursing safe staffing requirements.
 - L&I anticipates an additional 38 complaints per year related to meal and rest break violations.
 - In fiscal year 2021, L&I received 1,597 meal and rest break complaints across all sectors representing approximately 3,962,171 employees statewide (per the Employment Security Department [ESD] data). Per ESD labor census data (2019), there are approximately 94,629 medical staff employed among an average of 133 hospitals.

- Hospital staff represent 2.4% of the total Washington Labor force. ($94,629 / 3,962,171 = 0.024$)
 - Therefore, the department anticipates an additional annual average of 38 meal and rest break complaints. ($0.024 \times 1,597$ meal and rest break complaints = 38 additional meal and rest break complaints)
 - Workload indicators show a Protected Leave Specialist can investigate 60 complaints on an annual basis. This bill would add approximately 288 complaints (250 staffing and 38 meal and rest break) on an annual basis.
 - 60 complaint investigations per year by an IRA3 would require an additional 4.80 FTEs. ($288 \text{ complaints} / 60 \text{ investigations per IRA3 per year} = 4.80 \text{ FTEs}$)
- 2.2 FTEs, Industrial Relations Agent (IRA) 2, permanent, starting July 1, 2022. Duties include reviewing hospital staffing plans, providing outreach and guidance through the process, monitoring hospitals for compliance, approving and denying staffing plans, and enforcing violations of this requirement.
 - Currently, the Employment Standards Program does not monitor statewide compliance matters on a regular basis. This statute would require the monitoring of every hospital statewide to ensure timely submission of staffing plans.
 - There are approximately 133 hospitals statewide. This indicates approximately 133 submissions per year requiring tracking, review, education, outreach, and enforcement.
 - Workload indicators show the Protected Leave Specialist can investigate 60 complaints on an annual basis. L&I believes the processing, monitoring, outreach, and approving/denying of staffing plans is comparable workload to investigations.
 - 60 hospital staffing plans per year by an IRA2 would require an additional 2.20 FTEs. ($133 \text{ hospitals} / 60 \text{ staffing plans per IRA2 year} = 2.20 \text{ FTEs}$)
- 1.0 Administrative Regulations Analyst 4, temporary, for the period July 1, 2022 through June 30, 2023. Duties include working with stakeholders, writing policies and rules that might be controversial, and developing a form to be used by hospital staffing committees.

Information Technology (IT)

The expenditure calculations in this fiscal note include 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. All expenditures in this section are for the 2021-23 biennium.

Contract developers will be needed to create or purchase a new IT solution for hospital staffing compliance, in addition to the need to modify several existing systems. New receivables will be needed for Accounts Receivable Collection system (ARC). Modifications will be needed to the Front Counter Payment system and new interfaces to sub-systems, such as the Business Entity Analysis and Research system (BEAR). Major enhancements will be necessary for the Complaint Activity Tracking System (CATS). In addition, three new forms will need to be completed for the L&I website (Submit Staffing Committee Reports, Display Staffing Committee Reports, and Workplace Rights). This IT effort will require contractors for project management, IT system analysis, UI/UX development, and .NET development and testing. An ongoing resource and contractor support will be required to support the new IT system. Quality Assurance (QA), hardware, software, and server infrastructure costs are also required for this effort.

A total of \$1,830,072 is needed in the 2021-23 biennium for all information technology changes. This includes:

- Contractor costs – \$1,630,864 is needed for 12,464 contractor hours
 - \$2,266,454 is needed in the 2023-25 biennium for 16,746 contractor hours
 - \$480,240 is needed in the 2025-27 biennium and ongoing for 4,176 contractor hours
- QA – \$140,000 (\$131,633 is needed in fiscal year 2024)
- Hardware – \$5,508 (\$6,120 is needed in fiscal year 2024)
- Software – \$49,500 (\$25,000 is needed in fiscal year 2024)
- Server infrastructure – \$4,200 (ongoing per year)

In addition to the costs outlined above, the following IT staffing is required:

- IT Application Development - Journey, permanent, starting January 1, 2023. Duties include supporting initial project work, development and analysis for the new IT system, and ongoing application maintenance and support.

Rule making

\$17,500 is needed for seven rule making hearings to occur during fiscal year 2023. The average cost of one rule making hearing is \$2,500. (7 hearings x \$2,500 each = \$17,500)

Attorney General – Legal Services

\$123,000 is needed each year beginning in fiscal year 2023 for legal services. Providing legal advice on complex rule making and handling the anticipated new appeals will require an additional 0.50 FTE Assistant Attorney General (AAG), 0.25 FTE Legal Assistant (LA), and 0.12 Management Analyst 5 (representative classification).

Administrative Hearings

\$46,687 is needed each year beginning in fiscal year 2023 for administrative hearings at the Office of Administrative Hearings. This estimate is based on eight additional appeals.

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	0	48,000	45,000	45,000	45,000	45,000
609	Medical Aid	0	9,000	8,000	8,000	8,000	8,000
	Total:	\$0	\$57,000	\$53,000	\$53,000	\$53,000	\$53,000

The department assesses an indirect rate to cover agency-wide administrative costs. Labor and Industries' indirect rate is applied on salaries, benefits, and standard costs. For fiscal note purposes, the total indirect amount is converted into salary and benefits for partial or full indirect FTEs. Salary and benefits costs are based on a Fiscal Analyst 5 (Range 59, Step G).

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

This legislation would require L&I to create new rules to address definitions, charter requirements, and enforcement mechanisms.

Individual State Agency Fiscal Note

Bill Number: 1868 HB	Title: Health care staffing	Agency: 303-Department of Health
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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: Trudes Tango	Phone: 360-786-7384	Date: 01/13/2022
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 01/25/2022
Agency Approval: Alisa Weld	Phone: (360) 236-2907	Date: 01/25/2022
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 01/26/2022

Part II: Narrative Explanation

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

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill amends the existing hospital nurse staffing statute and expands the requirements to include “ancillary health personnel”; who are staff providing direct care or support services to patients. It specifies the staff-to-patient ratios in different hospital units, and it further outlines the roles, responsibilities, and processes of the hospital’s staffing committees. This bill also transfers the enforcement of the hospital staffing law from the Department of Health to the Department of Labor and Industries.

Section 1(1): Defines “department” as the Department of Labor and Industries for use in RCW 70.41.420 (Nurse Staffing Committee) and 70.41.425 (Nurse Staffing – Department Investigations). The change in definition transfers the authority for investigation and enforcement of this law, as outlined in Section 4(1)(a) and Section 4(2), from the Department of Health to the Department of Labor and Industries.

Section 15: 2017 c 249 s 4 (uncodified) is repealed (ESHB 1714 Washington Patient Safety Act expires June 1, 2023)

For the purposes of this fiscal note, the Department of Health expects no fiscal impact.

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 the Department of Health to charge a fee to generate sufficient revenue to fully support the costs of administering its programs. The Department of Health collects a fee of \$220 per bed to support all work related to Acute Hospitals under WAC 426-320-199 (Fees) including credentialing, programmatic work, investigations and inspections, etc. The Department of Health did not increase fees as a result of the original legislation, nor did it impose a civil penalty while it had authority, and therefore does not expect a change to cash receipts.

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.

Assumptions: The Department of Health assumes the transferring of authority for the investigation and enforcement of RCW 70.41.425 (Nurse Staffing- Department Investigations) will begin June 8, 2022, and investigations received by Department of Health prior to this date will be seen to completion by Department of Health on or before June 30, 2023.

Section 1: Defines “department” as the Department of Labor and Industries, transferring the authority for investigation and enforcement of this law, as outlined in Section 4(1)(a) and Section 4(2), from the Department of Health to the Department of Labor and Industries.

The Department of Health received significantly more nurse staffing complaints than originally expected. In addition, the department suspended investigations at various points during the COVID-19 pandemic when hospitals were overwhelmed with patient surge. As a result, the Department of Health has accumulated a backlog of 483 investigations related to health care facilities that need to be investigated, reviewed, and closed. Currently, the Department of Health has 6 nurse staffing investigations and 4 complaints awaiting assessment to determine if an investigation is needed, these investigations typically take 104 to 282 days to completely close. The Department of Health will continue to receive complaints until the Department of Labor and Industries assumes responsibility of the work, but the Department of Health would still need time

and resources to close cases submitted during the time that it had authority over the activity. Investigations and enforcement related to this backlog are expected to continue into fiscal year 2023, therefore the Department of Health does not expect a reduction in expenditures as a result of this bill.

RCW 70.41.425 (Nurse Staffing- Department Investigations) expires June 1, 2023 so reductions in expenditures outside of that timeframe were not considered for this fiscal note.

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

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 1868 HB	Title: Health care staffing	Agency: 360-University of Washington
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	0.0	0.0	353.2	934.1
Account					
General Fund-State 001-1	0	0	0	115,209,244	276,902,707
Total \$	0	0	0	115,209,244	276,902,707

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact . Factors impacting the precision of these estimates , and alternate ranges (if appropriate) , are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Trudes Tango	Phone: 360-786-7384	Date: 01/13/2022
Agency Preparation: Kelsey Rote	Phone: 2065437466	Date: 01/19/2022
Agency Approval: Kelsey Rote	Phone: 2065437466	Date: 01/19/2022
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 01/26/2022

Part II: Narrative Explanation

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

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill mandates minimum staffing ratios for nurses and nursing assistants in 15 distinct hospital units, removes clinical circumstance waivers for uninterrupted meal and rest breaks, and transitions hospital staffing oversight from the Department of Health to the Department of Labor and Industries (L&I).

Section 2. Minimum Staffing Standards

The legislation sets a maximum number of patients that can be assigned to each individual direct care nurse and certified nursing assistant for each shift.

- The ratios for registered nurses would range from 1:1 in the intensive care unit and operating room to 1:6 in postpartum (mom and baby each counted as patients) and psychiatric settings. The ratios for certified nursing assistants would range from 1:4 in cardiac and active labor settings to 1:13 in pediatric and 1:50 in cardiac monitoring.
- Nurses and certified nursing assistants could not be assigned to a unit or clinical care area without first receiving orientation “sufficient to provide competent care to patients” and having “demonstrated current competence in providing care in that area.”
- This section would take effect for UW Medicine on September 1, 2024.

Section 3. Hospital Staffing Committees

Nurse staffing committee laws are moved from Department of Health to L&I; new hospital staffing committees require that members be composed of at least 50% non-managerial staff chosen by their peers, and the rest from management. Additional staffing relief must be provided to ensure committee members are able to attend committee meetings.

Section 4. L&I Investigations

This section broadens the circumstances under which complaints can be filed and increases fines for staffing plan variations from \$100 per day to \$10,000 per day.

Section 6. Meal and Rest Breaks

This section reduces existing exceptions to meal and rest break requirements and expands the categories of staff they apply to.

Section 8. Mandatory Overtime

Prescheduled on-call shifts are limited to 20 hours per week. The legislation requires hospitals to make reasonable efforts to retain staff to qualify for a “reasonable efforts” exemption to mandatory overtime prohibitions. Hospitals cannot claim this exemption to use mandatory overtime to fill vacancies resulting from staff shortages persisting longer than three months.

Section 10. Investigation & Penalty Framework

This section sets an investigation and penalty framework for various violations in this bill, including meal and rest break and mandatory overtime violations. L&I is required to investigate and can levy fines up to \$5,000 for repeat violations.

Section 13. Private Right of Action

Permits certain employees and their bargaining representatives to bring a civil action against a health care provider for violating this chapter.

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.

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 majority of expenditures in this bill are related to staff salary and recruitment costs associated with new minimum staffing ratios, requirements for uninterrupted meal and rest breaks, and mandatory overtime provisions. Additional, indeterminate expenditures will likely be incurred related to responding to L&I investigations, paying penalties for noncompliance, and the private right of action.

STAFFING INCREASES – NURSES & MEDICAL STAFF

UW Medicine assumes we would need 4 FTE in FY24, 702.35 FTE in FY25, 935.13 FTE in FY26, and 933.13 FTE in FY27 and each year thereafter to reach compliance with the staffing requirements of this policy. These assumptions include 24/7 staffing ratios, break relief, and 15% non-productive time. The cost is reduced in FY25 to assume compliance beginning September 1, 2024.

UW MEDICAL CENTER (UWMC)

In order to comply with this bill, UW Medical Center would need 303 FTE in FY25, 404 FTE in FY26, and 402 FTE in FY27 and each year thereafter. This is made up of registered nurses, patient care technicians, and the clinical nurse educators needed for onboarding. This would cost approximately \$45,771,869 in FY25, \$59,516,428 in FY26, and \$59,241,709 in FY27 and each year thereafter.

HARBORVIEW (HMC)

In order to comply with this bill, Harborview would need 395.35 FTE in FY25 and 527.13 FTE in FY26 and each year thereafter. This is made up of registered nurses, mental health specialists, and hospital assistants. This would cost approximately \$57,574,501 in FY25 and \$76,766,002 in FY26 and each year thereafter.

Approximately half of the needed FTE are registered nurses, and the other half are certified nursing assistants. The average hourly wage for classified registered nurses is between \$55/hour and \$65/hour (avg. annual salary: \$124,800; benefits rate 37.3%) depending on the service and hospital. The average hourly wage for certified nursing assistants is approximately \$31/hour (avg. annual salary: \$64,480; benefits rate: 37.3%) across services and hospitals. The average contract hourly rate for registered nurses is approximately \$174/hour (avg. annual salary: \$361,920; no benefits) depending on the service but consistent between UW Medical Center and Harborview (costs for contract nurses are shown in Professional Service Contracts rather than Salaries & Benefits, and are included in FTE totals and tables).

The exact cost of the UWMC and HMC FTE will be dependent on the mix of classified staff and contract staff (i.e. traveling nurses) hired. True costs will likely be considerably higher than estimated in this fiscal note due to a higher percentage of contract staff, who typically cost an average of \$100/hour more than classified staff. We have calculated salaries, benefits, and professional service contracts using current staffing ratios. However, we do not believe it will be possible to hire 845 additional FTE at our existing ratio of classified to contract staff. Our current ratio is 87% classified staff and 13% contract staff, but ratios for implementing this bill could be closer to 50% classified and 50% contract staff. Across UWMC and HMC, there are currently 459 open positions we are recruiting for, and the number of contract staff we have had to hire has grown considerably in recent years due to pandemic-associated staffing shortages. Furthermore, while we did not account for inflation in salaries each year, the rate of salary inflation for nurses is currently higher than the rate of inflation for other employees given the current shortage.

STAFFING INCREASES – RECRUITMENT

In addition to the salaries and benefits for these clinical FTEs, there are recruiting costs associated with hiring the required staff. Consistent with current market conditions, UW Medicine currently offers signing bonuses and leverages external recruitment support for these staff. The signing bonuses cost \$10,000 for emergency department, neonatal intensive care

unit, and operating room nurses; \$5,000 for post-anesthesia care unit, critical care, acute care, and psych nurses; and \$3,000 for patient care technicians. The use of an external recruiter costs \$5,000 per hire.

UW Medicine assumes recruiting costs for both UWMC and HMC would be approximately \$9,556,591 in FY24, \$2,366,283 in FY25, and \$2,306,282 in FY26 and each year thereafter. This includes signing bonuses, external recruiter outsourcing, and the salary and benefits of 4.0 FTE Recruiters per year starting in FY24 (2.0 FTE each for UWMC and HMC; annual salary: \$80,000 - \$100,000; benefits rate: 29.4%).

TOTAL DETERMINATE COSTS

We estimate that the total determinate costs to comply with this bill would be approximately \$9,556,591 in FY24, \$105,652,653 in FY25, and \$138,588,713 in FY26, and \$138,313,994 in FY27 and each year thereafter.

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MONETARY FINES AND PRIVATE CAUSE OF ACTION - INDETERMINATE

Given the ongoing nationwide healthcare workforce staffing shortage and UW Medicine's existing recruitment challenges, we anticipate incurring additional costs related to L&I enforcement, including penalties due to noncompliance. Additional expected costs arising from enforcement are indeterminate.

Under this legislation, hospitals would be potentially subject to additional fines, including:

Staffing plan enforcement

- A one-time administrative fine is possible for not submitting staffing plans (\$25,000 fine) or committee charters (\$25,000 fine) on time.
- \$10,000 fine per day for the failure to adopt the staffing plan by consensus
- \$10,000 fine per day for failure to comply with staffing plan

Violations Pertaining to Meal and Rest Break, Mandatory Overtime, etc.

- Initial penalty of \$1,000 for first three violations
- \$2,500 penalty for fourth violation
- \$5,000 penalty for each subsequent violation

In addition, the bill creates a private civil cause of action. It defines potential plaintiffs to include health care facility employees, direct care nurses and CNAs, and labor organizations. A prevailing plaintiff may be awarded between \$100 and \$1,000 per violation per day, reasonable attorney's fees, and any other relief that the court deems appropriate, in addition to any administrative penalties imposed by L&I.

Additional costs are expected from potential litigation from private civil cause of action, which could result in the need for outside counsel (costing \$450-\$550 per hour), in addition to the fines and penalties described above.

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	0	0	0	115,209,244	276,902,707
Total \$			0	0	0	115,209,244	276,902,707

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years				353.2	934.1
A-Salaries and Wages				66,208,977	159,130,206
B-Employee Benefits				24,702,548	60,949,333
C-Professional Service Contracts				24,297,719	56,823,168
E-Goods and Other Services					
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					
9-					
Total \$	0	0	0	115,209,244	276,902,707

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
Clinical Nurse Educator	122,206				0.8	1.0
CNA Recruiter	80,000				2.0	2.0
Hospital Assistant: Emergency Dept	64,172				4.5	12.0
Hospital Assistant: PACU	64,172				0.4	1.2
Mental Health Specialist: Psychiatry	64,172				11.1	29.7
Nurse Recruiter	100,000				2.0	2.0
Patient Care Tech: Acute Care	64,172				66.7	178.0
Patient Care Tech: Critical Care	64,172				21.6	57.7
Patient Care Tech: Neonatal ICU	64,172				5.4	14.4
Patient Care Tech: Perinatal	64,172				14.4	38.5
Registered Nurse: Acute Care	95,001				129.1	344.2
Registered Nurse: Critical Care	97,616				36.0	96.1
Registered Nurse: Emergency Dept	96,358				33.0	87.9
Registered Nurse: Neonatal ICU	106,605				5.4	14.4
Registered Nurse: Operating Room	106,526				3.6	9.6
Registered Nurse: PACU	113,935				2.4	6.5
Registered Nurse: Psychiatry	110,649				14.7	39.2
Total FTEs					353.2	934.1

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact**IV. A - Capital Budget Expenditures**

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout
Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

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

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1868 HB	Title: Health care staffing
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☐ Cities:
- ☐ Counties:
- ☒ Special Districts: Significant expenditures for public hospital districts due to additional administrative and planning work , hiring new staff, potential fines, and potential litigation costs.
- ☐ Specific jurisdictions only:
- ☐ Variance occurs due to:

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: Amount of planning and writing time required for staffing plan and charter; number of new staff that would need to be hired and their respective hourly pay; signing bonus amounts; number of violations or instances of noncompliance with this chapter; number of cases requiring litigation.

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: Rebecca Duncan	Phone: 360-725-5040	Date: 01/26/2022
Leg. Committee Contact: Trudes Tango	Phone: 360-786-7384	Date: 01/13/2022
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/26/2022
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 01/26/2022

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 mandates minimum staffing ratios for nurses and nursing assistants in 15 distinct hospital units, removes clinical circumstance waivers for uninterrupted meal and rest breaks, and transitions hospital staffing oversight from the Department of Health to the Department of Labor and Industries (L&I).

Section 2. Minimum Staffing Standards

The legislation sets a maximum number of patients that can be assigned to each individual direct care nurse and certified nursing assistant for each shift.

- The ratios for registered nurses would range from 1:1 in the intensive care unit and operating room to 1:6 in postpartum (mom and baby each counted as patients) and psychiatric settings. The ratios for certified nursing assistants would range from 1:4 in cardiac and active labor settings to 1:13 in pediatric and 1:50 in cardiac monitoring.
- Nurses and certified nursing assistants could not be assigned to a unit or clinical care area without first receiving orientation “sufficient to provide competent care to patients” and having “demonstrated current competence in providing care in that area.”

Section 3. Hospital Staffing Committees

Nurse staffing committee laws are moved from Department of Health to L&I; new hospital staffing committees require that members be composed of at least 50% non-managerial staff chosen by their peers, and the rest from management. Additional staffing relief must be provided to ensure committee members are able to attend committee meetings.

Section 4. L&I Investigations

This section broadens the circumstances under which complaints can be filed and increases fines for staffing plan variations from \$100 per day to \$10,000 per day, except for critical access hospitals.

Section 5. Hospital Staffing Plan Completion

The hospital staffing committee must submit their staffing plan using a form created L&I. L&I must review submitted staffing plans to ensure they are timely received and completed. Failure to timely submit a staffing plan or a charter will result in a violation and civil penalty of \$25,000.

Section 6. Meal and Rest Breaks

This section reduces existing exceptions to meal and rest break requirements and expands the categories of staff they apply to.

Section 8. Mandatory Overtime

Prescheduled on-call shifts are limited to 20 hours per week. The legislation requires hospitals to make reasonable efforts to retain staff to qualify for a “reasonable efforts” exemption to mandatory overtime prohibitions. Hospitals cannot claim this exemption to use mandatory overtime to fill vacancies resulting from staff shortages persisting longer than three months.

Section 10. Investigation & Penalty Framework

This section sets an investigation and penalty framework for various violations in this bill, including meal and rest break and mandatory overtime violations. L&I is required to investigate and can levy fines up to \$5,000 for repeat violations.

Section 13. Private Right of Action

Permits certain employees and their bargaining representatives to bring a civil action against a health care provider for violating this chapter.

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.

This bill would have significant impacts on local government expenditures due to public hospitals creating and submitting a new staffing plan that meets the requirements of the bill, changing hospital staffing committees, hiring and staffing enough personnel to fulfill this new staffing plan, and potential fines to hospitals due to the inability to complete bill requirements on time. Total impacts are indeterminate for reasons discussed below.

According to the Washington State Hospital Association, there are 56 public hospital districts in the state and 37 public hospital district hospitals. The bill would require that all hospitals submit a staffing plan and staffing committee charter consistent with the new staffing requirements in the bill. The work for 37 public hospitals, many of which are small, to complete these staffing plans on time and to the full requirements of the bill, is indeterminate.

The bill would also require that hospitals increase their staffing to meet the requirements of the bill. Specifically, consistent with the University of Washington's fiscal note, the ratios for registered nurses would range from 1 :1 in the intensive care unit and operating room to 1:6 in postpartum and psychiatric settings. The ratios for certified nursing assistants would range from 1:4 in cardiac and active labor settings to 1:13 in pediatric and 1:50 in cardiac monitoring. In order to fully staff facilities in compliance with this bill, public hospitals would need to increase staff by over 30%, and in some cases more than 50%. The average hourly wage for classified registered nurses is between \$55 /hour and \$65/hour, depending on the service and hospital. The average hourly wage for certified nursing assistants is approximately \$31 /hour across services and hospitals. The average hourly wage for public health nurses is approximately \$33 /hour across jurisdictions.

As many hospitals are currently short-staffed, hospitals have been hiring contract staff (or travel nurses) to cover shortages as much as possible. The University of Washington finds that they currently employ 13% contract staff, but ratios for implementing this bill could require hiring up to 50% contract staff. Hourly wages for contract staff typically cost an average of \$100 /hour more than that of classified staff. The increase in staffing under the bill would likely increase the need for contract staff. However, since the exact number of staff that each hospital would need to hire cannot be determined at this time, these impacts due to hourly pay, increased hourly pay and signing bonuses (discussed below) are indeterminate.

In addition to the work required to increase staffing in public hospitals, this bill would establish fines for noncompliance. If a hospital of any size failed to submit the staffing plan to L&I by the appropriate deadline, or if the form is incomplete, the hospital would incur a \$25,000 fine. If a hospital of any size failed to submit the staffing committee charter to L&I by the appropriate deadline, the hospital would incur a \$25,000 fine. Also, if a hospital failed to adopt a staffing plan by consensus of the committee, or failed to submit or follow a corrective action plan on time in response to a staffing plan violation found by L&I, the hospital would incur a \$100 fine per day. Finally, any violation of this chapter, such as an interrupted meal or rest break, hospitals could incur fines of:

- Up to \$1,000 per violation up to three violations
- \$2,500 for the fourth violation
- \$5,000 for each subsequent violation.
- * The L&I Director can reduce or waive one of these fines if they find the hospital has taken corrective action

Since the number of violations or instances of noncompliance by public hospitals cannot be predicted at this time, the impact on local expenditures is indeterminate.

Finally, the bill would create a private civil cause of action. It would define potential plaintiffs to include health care facility employees, direct care nurses and CNAs, and labor organizations. A prevailing plaintiff may be awarded between \$100 and \$10,000 per violation per day, reasonable attorney's fees, and any other relief that the court deems appropriate, in addition to any administrative penalties imposed by L&I. Additional costs are expected from potential litigation from private civil cause of action, which could result in the need for outside counsel (costing \$450-\$550 per hour), in addition to

the fines and penalties described above. Since the number of cases that plaintiffs would file cannot be predicted at this time, the impact on local expenditures is indeterminate.

BACKGROUND:

According to WSHA polling in October of 2021, there are currently 6,100 vacant nurse positions statewide. In order to hire additional staff, hospitals would need to work to recruit them. This work would also have an impact on public hospital expenditures, requiring not only staff time to work to recruit hospital staff to smaller, rural hospitals, but also signing bonuses. UW Medicine currently offers signing bonuses ranging from \$3,000 to \$10,000 (depending on the department). Public hospitals expect that they will need to offer at least that much of a signing bonus, if not more, to incentivize potential new staff to work at their hospital.

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 bill would have no impact on local government revenues.

SOURCES

House Bill Analysis 2022

Washington State Hospital Association

University of Washington

Association of Washington Cities 2022 Salary Survey