

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1868 E 2S HB AMS LCT S4921.1	<b>Title:</b> 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	24,000	0	0	246,000	0	0	246,000
Office of Administrative Hearings	0	0	23,279	0	0	93,374	0	0	93,374
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>47,279</b>	<b>0</b>	<b>0</b>	<b>339,374</b>	<b>0</b>	<b>0</b>	<b>339,374</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
Office of Attorney General	.1	0	0	24,000	.9	0	0	246,000	.9	0	0	246,000
Office of Administrative Hearings	.1	0	0	23,279	.3	0	0	93,374	.3	0	0	93,374
Department of Labor and Industries	3.3	0	0	3,034,000	8.8	0	0	5,191,000	9.6	0	0	3,166,000
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Health	1.0	252,000	252,000	252,000	.0	0	0	0	.0	0	0	0
Department of Corrections	Non-zero but indeterminate cost and/or savings. Please see discussion.											
University of Washington	.0	0	0	0	192.1	0	0	57,836,400	760.4	0	0	213,690,222
Washington State University	.0	0	0	0	.0	0	0	0	.0	0	0	0
<b>Total \$</b>	<b>4.5</b>	<b>252,000</b>	<b>252,000</b>	<b>3,333,279</b>	<b>202.1</b>	<b>0</b>	<b>0</b>	<b>63,366,774</b>	<b>771.2</b>	<b>0</b>	<b>0</b>	<b>217,195,596</b>

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						53,228,211			145,031,770
Local Gov. Other	In addition to the estimate above, there are additional indeterminate costs and/or savings . Please see individual fiscal note.								
<b>Local Gov. Total</b>						<b>53,228,211</b>			<b>145,031,770</b>

## 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	.0	0	0	.0	0	0	.0	0	0
Department of Health	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
University of Washington	.0	0	0	.0	0	0	.0	0	0
Washington State University	.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>

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

<b>Prepared by:</b> Anna Minor, OFM	<b>Phone:</b> (360) 790-2951	<b>Date Published:</b> Final 3/ 4/2022
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1868 E 2S HB AMS LCTA S4921.1	<b>Title:</b> Health care staffing	<b>Agency:</b> 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		24,000	24,000	246,000	246,000
<b>Total \$</b>		24,000	24,000	246,000	246,000

### Estimated Operating Expenditures from:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	0.2	0.1	0.9	0.9
<b>Account</b>					
Legal Services Revolving Account-State 405-1	0	24,000	24,000	246,000	246,000
<b>Total \$</b>	0	24,000	24,000	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: Jarrett Sacks	Phone: 360-786-7448	Date: 02/25/2022
Agency Preparation: Amy Flanigan	Phone: 509-456-3123	Date: 03/02/2022
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 03/02/2022
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 03/03/2022

## 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 – New Section – Findings – Improving nurse and healthcare worker safety and working conditions leads to better patient care.

Section 2 – Amends RCW 70.41.410 – Adds and changes definitions.

Section 3 – New Section – Sets forth definitions for terms used in this legislation. Sets forth minimum staffing standards for hospitals. Establishes the Department of Labor and Industries (L&I) as department to enforce compliance issues.

Section 4 – New Section – Allows Department to grant variance to minimum standards for good cause, and defines good cause and what should be considered in granting a variance. Also sets out rules for when a variance can be requested. Sets out evidence that can be presented, how it can be presented and time frames. Also requires written decisions.

Section 5 – Amends RCW 70.41.420 – Requires establishment of staffing committee for hospitals by September 1, 2023. Sets forth rules for composition of the committee as well as duties and record requirements. Requirement include submitting an annual staffing plan. Also sets forth what should be considered when developing this plan. Also explains how the form is reviewed and what must be filed with L&I. Sets forth fines that can be imposed for failing to adopt plan. Staffing committee also must file a charter with L&I.

Section 6 – 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 7 – 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 8 – Amends RCW 49.12.480 – Makes changes to meal and rest break requirements as well as defining a clinical circumstance.

Section 9 – Amends RCW 49.28.130 – Amends certain definitions.

Section 10 – Amends RCW 49.28.140 – Changing time limits for on call time and rules for employee retention efforts.

Section 11 – 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 12 – 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 13 – 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 14 – New Section – States that collections of unpaid penalties are governed by RCW 49.48.086.

Section 15 – New Section – Allows L&I to adopt and implement rule making for purposes of this chapter.

Section 16 – New Section – By November 1, 2023 must submit report to legislature that assesses reciprocity with registered nurse licensure and what department must consider in assessment.

Section 17 – Repeals 2017 c 249 s 4.

Section 18 – Specified sections are a new chapter in Title 49 RCW.

Section 19 – Recodifications.

Section 20 – Recodifications.

Section 21 – Effective January 1, 2023.

Section 22 – Act is null and void if specific funding is not provided.

## **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 this client 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 goods & 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 DOH to the Department of Labor & Industries (L&I). Any legal advice to DOH would be nominal. Therefore, costs are not included in this fiscal note.

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

The enactment of this bill will not impact the provision of legal services by the AGO’s Social and Health Services – Olympia (SHO) and the Labor and Personnel (LPD) divisions. Any legal advice to client agencies would be nominal. Therefore, costs are not included in this 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 division (LNI) anticipates to receive eight additional appeals per Fiscal Year (FY). LNI assumes 0.1 AAG FTE beginning July 1, 2022 (FY 2023), and each FY thereafter for immediate legal advice related to implementation, policy making, and rulemaking. With delayed implementation, LNI anticipates that appeals will begin in FY 2024 requiring 0.4 AAG FTE, and each FY thereafter. With appeals, the ongoing work on these complex matters will require an ongoing 0.5 AAG FTE (0.1 + 0.4) to address long-term client advice and litigation.

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

- FY 2023: \$24,000 / 0.1 AAG and 0.05 LA 3.
- FY 2024: \$123,000 / 0.5 AAG and 0.25 LA 3, and 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	24,000	24,000	246,000	246,000
<b>Total \$</b>			0	24,000	24,000	246,000	246,000

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

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		0.2	0.1	0.9	0.9
A-Salaries and Wages		16,000	16,000	160,000	160,000
B-Employee Benefits		5,000	5,000	54,000	54,000
C-Professional Service Contracts					
E-Goods and Other Services		3,000	3,000	28,000	28,000
G-Travel				2,000	2,000
J-Capital Outlays				2,000	2,000
<b>Total \$</b>	0	24,000	24,000	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		0.1	0.1	0.5	0.5
Legal Assistant 3	54,108		0.1	0.0	0.3	0.3
Management Analyst 5	88,644		0.0	0.0	0.1	0.1
<b>Total FTEs</b>			0.2	0.1	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)		24,000	24,000	246,000	246,000
<b>Total \$</b>		24,000	24,000	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

<b>Bill Number:</b> 1868 E 2S HB AMS LCTA S4921.1	<b>Title:</b> Health care staffing	<b>Agency:</b> 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		23,279	23,279	93,374	93,374
<b>Total \$</b>		23,279	23,279	93,374	93,374

### Estimated Operating Expenditures from:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	0.2	0.1	0.3	0.3
<b>Account</b>					
Administrative Hearings Revolving Account-State 484-1	0	23,279	23,279	93,374	93,374
<b>Total \$</b>	0	23,279	23,279	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: Jarrett Sacks	Phone: 360-786-7448	Date: 02/25/2022
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 03/01/2022
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 03/01/2022
OFM Review: Tyler Lentz	Phone: (360) 790-0055	Date: 03/03/2022



## 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.*

There is no additional impact to the Office of Administrative Hearings (OAH) from the new section added in this engrossed second substitute striker.

Section 2 subsection (9) and Section 9 subsection (6) place a heavier burden on employers to “exhaust and document” their efforts to obtain coverage via the prescribed tasks as opposed to performing the prescribed tasks to “the extent reasonably possible.”

New Section 4 allows the Department of Labor & Industries (L&I) to grant a variance to the prescribed nurse-to-patient and Certified Nurse Assistant-to-patient ratios, in certain instances. Those who don’t agree with the decision can request reconsideration.

Section 8 adds a provision that allows employees to combine their meal and rest period into one longer break period if the employer agrees. The employer must also pay for the entire combined meal /rest period if the employee is required to remain “on duty” during this time. If the employee is “released from duty” for an uninterrupted, extended break, then the employer does not need to pay for the meal period portion of the break.

New Section 13 allows anyone aggrieved by a citation and notice of assessment to appeal. These appeals will come to the 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 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.*

L&I estimates that the proposed legislation will result in four new appeals per fiscal year beginning in FY 2023, and will increase to eight new appeals per fiscal year beginning in FY 2024. 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**

FY 2023: 0.09 FTE ALJ at a cost of \$14,140; 0.01 FTE Senior ALJ at a cost of \$1,697; 0.05 FTE LA2 at a cost of \$4,648; and 0.02 FTE MA5 at a cost of \$2,794. Total cost: \$23,279.

FY 2024 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 LA2 at a cost of \$9,297; and 0.04 FTE MA5 at a cost of \$5,589. Total cost: \$46,687.

This act is effective January 1, 2023.

**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	23,279	23,279	93,374	93,374
<b>Total \$</b>			0	23,279	23,279	93,374	93,374

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

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		0.2	0.1	0.3	0.3
A-Salaries and Wages		14,611	14,611	58,660	58,660
B-Employee Benefits		4,909	4,909	19,678	19,678
C-Professional Service Contracts					
E-Goods and Other Services		3,400	3,400	13,600	13,600
G-Travel		155	155	620	620
J-Capital Outlays		204	204	816	816
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	23,279	23,279	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		0.1	0.1	0.2	0.2
Legal Assistant 2	48,996		0.1	0.0	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
<b>Total FTEs</b>			0.2	0.1	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**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1868 E 2S HB AMS LCTA S4921.1	<b>Title:</b> Health care staffing	<b>Agency:</b> 235-Department of Labor and Industries
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

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

### Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	6.5	3.3	8.8	9.6
<b>Account</b>					
Accident Account-State 608-1	0	2,578,000	2,578,000	4,415,000	2,694,000
Medical Aid Account-State 609-1	0	456,000	456,000	776,000	472,000
<b>Total \$</b>	0	3,034,000	3,034,000	5,191,000	3,166,000

### 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: Jarrett Sacks	Phone: 360-786-7448	Date: 02/25/2022
Agency Preparation: Shana J Snellgrove	Phone: 360-902-6408	Date: 02/25/2022
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/25/2022
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/27/2022

## 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	2,578,000	2,578,000	4,415,000	2,694,000
609-1	Medical Aid Account	State	0	456,000	456,000	776,000	472,000
<b>Total \$</b>			0	3,034,000	3,034,000	5,191,000	3,166,000

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

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		6.5	3.3	8.8	9.6
A-Salaries and Wages		525,000	525,000	1,338,000	1,450,000
B-Employee Benefits		189,000	189,000	492,000	538,000
C-Professional Service Contracts		1,958,000	1,958,000	2,618,000	480,000
E-Goods and Other Services		266,000	266,000	664,000	644,000
G-Travel		16,000	16,000	49,000	54,000
J-Capital Outlays		80,000	80,000	30,000	
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	3,034,000	3,034,000	5,191,000	3,166,000

**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		0.4	0.2	0.6	0.6
Industrial Relations Agent 2	64,332				1.4	2.2
Industrial Relations Agent 3	67,560		3.6	1.8	4.8	4.8
IT App Development - Journey	96,888		0.5	0.3	1.0	1.0
Occupational Nurse Consultant	126,144		1.0	0.5	1.0	1.0
<b>Total FTEs</b>			6.5	3.3	8.8	9.6

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

**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.

E2SHB 1868 AMS LCTA S4921.1 is different than E2SHB 1868 in that it:

- Removes the requirement that the staffing plan developed and overseen by the staffing committee comply with the nurse staffing standards established under the bill.
- Removes the requirement that a hospital staffing committee review its staffing plan against the ability to meet the staffing standards established under the bill.
- Clarifies, in the factors a staffing committee must consider when developing a staffing plan, that the ability to comply with relevant state and federal laws and rules is not limited only to those regarding meal and rest breaks and use of overtime and on-call shifts.

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

**Section 2** amends RCW 70.41.410 by updating definitions pertaining to sections 2 and 7 of this bill, and RCW 70.41.420 and 70.41.425, unless clearly stated otherwise:

1. “Department” means L&I.
2. “Direct care nursing assistant-certified” means an individual certified under Chapter 18.88A RCW who provides direct patient care.
3. “Direct care 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 but is not a physician, physician's assistant, or an advanced registered nurse practitioner unless working as a direct care registered nurse.
8. "Patient care unit" means any unit or area of the hospital that provides patient care by registered nurses.
9. "Reasonable efforts" means that the employer exhausts and documents all of the following but is unable to obtain staffing coverage:
  - (a) Seeks individuals to volunteer to work extra time from all available qualified staff who are working;
  - (b) Contacts qualified employees who have made themselves available to work extra time;
  - (c) Seeks the use of per diem staff; and
  - (d) Seeks personnel from a contracted temporary agency when such staffing is permitted by law or an applicable collective bargaining agreement, and when the employer regularly uses a contracted temporary agency.
10. "Skill mix" has been updated to mean experience of, and number and relative percentages of nursing and ancillary health personnel.
11. "Unforeseeable emergent circumstance" means:
  - (a) Any unforeseen national, state, or municipal emergency; or
  - (b) When a hospital disaster plan is activated.

**Section 3 (new):**

1. Establishes definitions for this section unless the context clearly requires otherwise.
  - (a) "Department" means L&I.
  - (b) "Direct care nursing assistant-certified" means an individual certified under Chapter 18.88A RCW who provides direct care to patients.
  - (c) "Direct care registered nurse" means an individual licensed as a nurse under Chapter 18.79 RCW who provides direct care to patients.



- (d) "Hospital" has the same meaning as defined in RCW 70.41.020.
  - (e) "Hospital staffing committee" means the committee established by a hospital under RCW 70.41.420.
  - (f) "Patient care unit" means any unit or area of the hospital that provides patient care by registered nurses.
2. 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 12 through 14 of this act.
  3. Provides minimum staffing standards for direct care registered nurse to patient ratios per shift.
  4. Provides minimum staffing standards for direct care nursing assistants-certified to patient ratios per shift.
  5. Provides additional personnel assignment staffing limits.
  6. Hospitals may assign fewer patients than listed in the maximum ratios.
  7. The personnel assignment limits established in this section do not decrease any nurse-to-patient staffing levels in effect pursuant to a collective bargaining agreement or established under a hospital's staffing plan in effect as of January 1, 2022, except with majority vote of the staffing committee.
  8. 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.
  9. 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 4 (new):**

1. Allows L&I to grant a variance from the minimum staffing standards for good cause. “Good cause” means situations where a hospital can establish that compliance with the minimum staffing standards are infeasible, and that granting a variance does not have a significant harmful effect on the health, safety, and welfare of the involved employees and patients.
2. A hospital may seek a variance by submitting a written application to L&I.
3. L&I must allow the hospital and any involved employees and their union representatives the opportunity for oral or written presentation during the variance review process.
4. L&I must issue a written decision either granting or denying the variance not later than 60 days after receiving the application for variance. L&I may also extend the 60-day time period by provided advanced written notice.
5. Variances shall be granted if L&I determines there is good cause for allowing a hospital to not comply with the minimum staffing standards.
6. Upon making a determination for issuance of a variance, L&I must notify the hospital and any involved employees and their union representatives in writing. If the variance is denied, the written notification must include the basis for denial.
7. A request for reconsideration may be filed with L&I’s director within 15 days after receiving notice of the variance determination.
8. Unless subject to the reconsideration process, the director may revoke or terminate the variance order at any time after giving the hospital at least 30 days' notice before revoking or terminating the order.
9. Where immediate action is necessary pending further review, L&I may issue a temporary variance. The temporary variance will remain valid until L&I determines whether good cause exists for issuing a variance.

10. If a hospital obtains a variance, the hospital must provide the involved employees with information about the minimum staffing standards that apply within 15 days of receiving notification of such approval from L&I. A hospital must make this information readily available to all employees.
11. Variances under this section may be renewed.
12. L&I may adopt rules to establish additional variance eligibility criteria.

**Section 5** 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, 2023.
  - (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 3 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 \$5,000 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, beginning July 1, 2024, and when updated.
- 7. Beginning July 1, 2024, each hospital shall implement its 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 6** 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 section 3, 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 emergent 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 emergent 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 \$5,000 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. Records of any civil penalty and administrative actions imposed on hospitals are subject to public disclosure and violations shall be publicly reported on L&I's website.
4. Complaints can be submitted to L&I for violations of RCW 70.41.420 regardless of the provisions in this section.

**Section 7 (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. L&I must post hospital staffing plans, staffing committee charters, and violations of this section on its website.

**Section 8** amends RCW 49.12.480 by removing exceptions to the meal and rest break requirements and updating definitions of employee and employer. Updated requirements 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, or a clinical circumstance, as determined by the employee that may lead to a significant adverse effect on the patient's condition, unless the employer or employer's designee determines that the patient may suffer life-threatening adverse effects.
  - (c) For any work period for which an employee is entitled to one or more meal period and more than one rest period, the employee and the employer may agree that a meal period may be combined with a rest period. This agreement may be revoked at any time by the employee. If the employee is required to remain on duty during the combined meal and rest period, the time shall be paid. If the employee is released from duty for an uninterrupted combined meal and rest period, the time corresponding to the meal period shall be unpaid, but the time corresponding to the rest period shall be paid.
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 9** amends RCW 49.28.130 by updating definitions of employee, employer, health care facility, reasonable efforts, and unforeseeable emergent circumstance.

**Section 10** amends RCW 49.28.140 by updating prescheduled on-call time and chronic short staffing vacancies.

**Section 11** 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 12 (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 13 (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 14 (new)** states collections of unpaid citations assessing civil penalties will be pursuant to RCW 49.48.086.

**Section 15 (new)** states L&I may adopt and implement rules for investigation and enforcement of this chapter including but not limited to retaliation protection.

**Section 18 (new)** states Sections 3, 4, and 7, and 12 through 15 of this act constitute a new chapter in Title 49 RCW.

**Section 19 (new)** recodifies RCWs 70.41.410, 70.41.420 and 70.41.425 to the new chapter in Title 49 RCW created in section 18.

**Section 20 (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 18.

**Section 21 (new)** makes this act effective January 1, 2023.

**Section 22 (new)** makes this act null and void if specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act.



## 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 7 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 12 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 x 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 violations x \$1,000 per violation = \$35,000
- Section 12 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 October 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. ( $288$  complaints /  $60$  investigations per IRA3 per year = 4.80 FTEs)
  - Meal and rest break provisions and overtime rules take effect January 1, 2023. Therefore, L&I would need to hire and train the IRA3s to be ready to begin enforcement and investigations. This necessitates an October 1, 2022 start date.
- 2.2 FTEs, Industrial Relations Agent (IRA) 2, permanent, starting April 1, 2024. 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 hospitals / 60 staffing plans per IRA2 year = 2.20 FTEs)
  - Staffing plans must be submitted to L&I beginning in July 2024. Therefore, L&I would need to hire and train the IRA2s to be ready to review and approve these plans. This necessitates an April 1, 2024 start date.
- 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 forms development.
  - 1.0 Occupational Nurse Consultant (ONC), permanent, starting July 1, 2022. Duties include receiving, reviewing, and making approval/denial decisions regarding variance requests. These decisions are specifically tied to a determination of impact to patient and staff health, safety, and welfare. A medically-trained professional will be required to make these determinations. Due to the overall complexity and medical expertise needed to take on this new body of work, this position will also be necessary to oversee and advise on the implementation of all new requirements of the bill, including participating in rulemaking and policy development. The ONC will need to start at the same time as the Administrative Regulations Analyst 4 because having a medically-trained professional present during the rulemaking and policy development process will allow L&I to understand the industry-specific concerns of healthcare employers and their medically-trained staff. In addition, the ONC will be critical in the establishment of internal/external processes, external communication and outreach development, and forms development.

### **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). A variance subsystem will be required that includes worklists, notifications, letters, decisions, reconsiderations, renewals, and significant L&I webpage updates. 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 \$2,017,292 is needed in the 2021-23 biennium for all information technology changes. This includes:

- Contractor costs – \$1,818,084 is needed for 14,043 contractor hours
  - \$2,486,204 is needed in the 2023-25 biennium for 18,640 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**

\$24,000 is needed in fiscal year 2023 and \$123,000 is needed each year beginning in fiscal year 2024 for legal services. Providing legal advice on complex rule making and handling the anticipated new appeals will require an additional 0.10 Assistant Attorney General (AAG) and 0.05 Legal Assistant (LA) in fiscal year 2023. Beginning in fiscal year 2024, 0.50 FTE AAG and 0.25 FTE LA is required each year.

**Administrative Hearings**

\$23,279 is needed in fiscal year 2023 and \$46,687 is needed each year beginning in fiscal year 2024 for administrative hearings at the Office of Administrative Hearings. This estimate is based on four additional appeals in fiscal year 2023, which will increase to eight additional appeals per year beginning in fiscal year 2024.

**Indirect Costs**

The amount included in this fiscal note for indirect is:

<b>Fund Name</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>
608 Accident	0	35,000	42,000	51,000	51,000	51,000
609 Medical Aid	0	6,000	8,000	9,000	9,000	9,000
<b>Total:</b>	<b>\$0</b>	<b>\$41,000</b>	<b>\$50,000</b>	<b>\$60,000</b>	<b>\$60,000</b>	<b>\$60,000</b>

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, enforcement mechanisms, and staffing standards variance requests.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1868 E 2S HB AMS LCTA S4921.1	<b>Title:</b> Health care staffing	<b>Agency:</b> 300-Department of Social and Health Services
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

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

### Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Jarrett Sacks	Phone: 360-786-7448	Date: 02/25/2022
Agency Preparation: Sara Corbin	Phone: 360-902-8194	Date: 03/02/2022
Agency Approval: Dan Winkley	Phone: 360-902-8236	Date: 03/02/2022
OFM Review: Bryan Way	Phone: (360) 522-3976	Date: 03/03/2022



## 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.*

E2SHB 1868 AMS LCTA S4921.1 relates to improving worker safety by addressing staffing needs, overtime, meals, breaks and enforcement specifically for hospitals. Although Eastern State Hospital (ESH), Western State Hospital (WSH), and the Child Study and Treatment Center (CSTC) are not included in Section 3 of this bill, the state hospitals are subject to the requirements of Section 5, 6, and 7 of this proposed legislation.

Section 5: Amends RCW 70.41.420, Requires establishment of a staffing committee for each hospital by September 1, 2023. Sets forth rules for composition of the committee as well as duties and record requirements. Requirement includes submitting an annual staffing plan. Also sets forth what should be considered when developing this plan. Also explains how the form is reviewed and what must be filed with the Department of Labor and Industries (L&I).

Section 5(3) Provides hospital staffing committee responsibilities that include: (a) Development and oversight of an annual patient care unit and shift based staffing plan, and use of a standard format or form to submit the annual staffing plan.

Section 5(11) Staffing committee must file a charter with L&I, which provides a number of requirements.

Section 6: L&I will investigate complaints with regard to violations of RCW 70.41.420 or section 3 of this act, and assess civil penalties and post violations on its website.

New Section 7: Requires the state hospitals to submit a hospital staffing plan and staffing committee charter to L&I for review and posting on its website, assessing civil penalty of \$25,000 for failing to do so with violations posted on its website.

### 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.*

E2SHB 1868 AMS LCTA S4921.1 will have an indeterminate fiscal impact to the Department of Social and Health Service (DSHS), Behavioral Health Administration (BHA).

Eastern State Hospital (ESH), Western State Hospital (WSH), and the Child Study and Treatment Center (CSTC) are not included in Section 3 of this bill, however, they are subject to the requirements of Section 5. The fiscal implications and standards the state hospitals are expected to comply with in this section are unclear. State hospital funding is subject to legislative approval through the state budget process. Recommendations by the staffing plan committee will not be able to be implemented until funding is requested and received through the legislative process. In addition, Sections 6 and 7 impose civil penalties for non-compliance with this legislation.

Additional staff resources are needed to comply with the recognized requirements of Section 5. A Research and Data Manager, three Staffing Committee Coordinator's and three Management Analyst 5 (MA5) positions are needed to meet the new requirements in Section 5-7 and to ensure coordination throughout BHA. The Research and Data Manager will be located at BHA Headquarters, a Staffing Committee Coordinator and MA5 will support ESH, and two Staffing Committee Coordinators and two MA5 will support CSTC and WSH. The addition of these staff will support multiple requirements throughout the bill as listed below.

- Section 5(3)(a) requires Labor and Industries (L&I) to develop a uniform format or form, in coordination with stakeholders, hospitals, and labor organizations, for complying with the requirement to submit the annual staffing plan. The format or form must allow patients and the public to clearly understand and compare staffing patterns and actual levels of staffing across facilities. Although many of these items are provided to the staffing committees there is currently no consistency or oversight of the data being reported. Additional staff resources are needed to coordinate the data requirements in this section and to oversee the reliability of the data being provided by the facilities.
- Section 5(11) requires hospital staffing committees to file a charter with L&I to include, but not limited to: roles & responsibilities on how the committee operates, schedule for at least monthly meetings and must give members at least 30-day notice, process for how complaints will be reviewed, process to ensure complainant receives a letter stating outcome of complaint, hospital committee meeting standards, policy for retention of information (must be at least three years). Additional staff resources are needed to assist with the Staffing Committee requirements, including tracking and responding to complaints.
- Section 6(2) gives L&I the authority to impose a civil penalty of \$5,000 per day if the hospitals fail to submit or submits but fails to follow a corrective action plan in response to a violation or violations against the hospital. Additional staff resources are needed to meet the reporting requirements of L&I, and to work with the staffing plan committee to ensure compliance with corrective action plans.
- Section 7 is a new section that requires L&I to review each staffing plan, and ensure it is received by the deadline on the agreed upon form in Section 5. Hospitals must complete all portions of the form and L&I may determine that a hospital has failed to submit if the plan is incomplete. Failure to submit or submit an incomplete form could result in a civil penalty of \$25,000. Failure to submit a staffing charter may also result in a civil penalty of \$25,000. The required staffing will assist BHA with compliance in submitting staffing plans and charters timely and accurately.

FY2023 – 3.5 FTE's & \$ 541,000 GF-State  
 FY2024 – 7.0 FTE's & \$1,078,000 GF-State  
 FY2025 – 7.0 FTE's & \$1,078,000 GF-State  
 FY2026 – 7.0 FTE's & \$1,078,000 GF-State  
 FY2027 – 7.0 FTE's & \$1,078,000 GF-State

No costs are assumed or illustrated for any potential Information Technology impacts /support needs or associated costs with fines that can be imposed upon BHA.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

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

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

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

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

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

<b>Bill Number:</b> 1868 E 2S HB AMS LCTA S4921.1	<b>Title:</b> Health care staffing	<b>Agency:</b> 303-Department of Health
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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	1.9	1.0	0.0	0.0
<b>Account</b>					
General Fund-State      001-1	0	252,000	252,000	0	0
<b>Total \$</b>	0	252,000	252,000	0	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: Jarrett Sacks	Phone: 360-786-7448	Date: 02/25/2022
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 02/25/2022
Agency Approval: Alisa Weld	Phone: (360) 236-2907	Date: 02/25/2022
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 03/01/2022

## 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 .*

The fiscal impact has not changed from the previous fiscal note on 1868 E2SHB.

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 2(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 16: Requires the Department of Health to submit a report to the appropriate committees of the legislature by November 1, 2023 that assesses the state's alternatives to increase the registered nurse reciprocity between Washington and other states.

Section 17: 2017 c 249 s 4 (uncodified) is repealed (ESHB 1714 Washington Patient Safety Act expires June 1, 2023).

Section 21: Establishes January 1, 2023, as the effective date of this act.

### 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 .*

Section 2: 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.*

Section 2: Defines “department” as the Department of Labor and Industries, transferring the authority for investigation and enforcement of this law, as outlined in Section 6(1)(a) and Section 6(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 on January 1, 2023. Complaints received prior to the effective date of this act would still require time and resources to investigate and close which the Department of Health believes can be done in fiscal year (FY) 2023, however, if enforcement is needed costs could extend into FY 2024. Based on these assumptions, the Department of Health does not expect a reduction in expenditures as a result of this bill.

Section 16: Requires the Department of Health to submit a report to the appropriate committees of the legislature, that assesses the state's alternatives to increase the registered nurse reciprocity between Washington and other states. The report shall include an assessment of the current registered nurse reciprocity laws, compacts, and rules. The report shall also include alternatives to current laws and rules, impacts of those alternatives, and information on how military spouses or partners may benefit from a compact or reciprocity. The department assumes six stakeholder meetings would be needed to engage interested parties and a facilitator would be needed to assist with this complex topic. The department assumes it will hire one full time employee to manage to conduct research, coordinate with associations, licensees, and program, and write a report with recommendations for the legislature by November 1, 2023. However, due to the complexity of this topic, the department may enter into a contract to complete the report and all associated work. Additionally, support from programs will include meeting prep, attendance, and follow-up, as well as report review and feedback. Costs include staff and board members, associated expenses (including goods and services, travel, intra-agency, and indirect charges ), \$21,000 for facilitation services, and \$9,000 for facility rentals for a total of 1.9 FTE and \$252,000 (GFS) in FY 2023.

Total costs to implement this bill are:  
 FY 2023 – 1.9 FTE and \$252,000 (GFS)

**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	252,000	252,000	0	0
<b>Total \$</b>			0	252,000	252,000	0	0

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

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years		1.9	1.0		
A-Salaries and Wages		148,000	148,000		
B-Employee Benefits		52,000	52,000		
C-Professional Service Contracts		21,000	21,000		
E-Goods and Other Services		20,000	20,000		
G-Travel		2,000	2,000		
T-Intra-Agency Reimbursements		9,000	9,000		
9-					
<b>Total \$</b>	0	252,000	252,000	0	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
COMMUNICATIONS CONSULTANT 5	84,396		0.1	0.1		
Fiscal Analyst 2	53,000		0.3	0.2		
HEALTH SERVICES CONSULTANT 4	80,292		0.1	0.1		
Health Svcs Conslt 1	53,000		0.2	0.1		
MANAGEMENT ANALYST 5	88,644		1.0	0.5		
NURSING CONSULTATION ADVISOR	142,716		0.1	0.1		
WMS02	110,760		0.1	0.1		
<b>Total FTEs</b>			1.9	1.0		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

**Part V: New Rule Making Required**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1868 E 2S HB AMS LCTA S4921.1	<b>Title:</b> Health care staffing	<b>Agency:</b> 310-Department of Corrections
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

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

### Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Jarrett Sacks	Phone: 360-786-7448	Date: 02/25/2022
Agency Preparation: Greg Scott-Braaten	Phone: 360-725-8977	Date: 02/28/2022
Agency Approval: Ronell Witt	Phone: 3607258989	Date: 02/28/2022
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/28/2022



## 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 relates to establishing nurse to patient ratios in hospitals and amends previous legislation in regards to mandatory overtime for nursing personnel.

This striker bill does not add additional language that has potential Department of Corrections (DOC) impact.

Below is previous language that has potential DOC impact :

Section 8(2)(c) amends RCW 49.28.140 to define chronic staffing shortages as longer than three months when referencing documented efforts to fill vacancies when using overtime to fill them.

Section 10 is a new section that defines what fine penalty amounts are and how they progress in amount when more instances of violating mandatory overtime complaints are founded.

Section 13 states that a direct care nurse or direct care nursing assistant may file civil action against a health care facility covered by RCWs 49.12.480, 49.28.130, and 49.28.140 for violations of those RCWs and sets allowed amounts.

Section 19 states this act takes effect January 1, 2023

Section 20 states if specific funding for the purposes of this act, refencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

### 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 Department of Corrections (DOC) assumes an indeterminate fiscal impact of \$50,000 or less.

In regards to sections 1 thru 6 relating to nurse to patient ratios and the creation of hospital staffing committees, DOC has not been historically considered as a hospital as defined in RCW 70.41.020 and does not foresee a fiscal impact relating to those sections unless consideration is changed to include DOC health care facilities as hospitals.

The DOC may see a fiscal impact as it relates to the fines and civil action due to sections 8, 10, and 13 of this bill that amend and add to new sections RCW 49.28.140. The DOC maintains that it follows the statutes relating to mandatory overtime as stated in these RCWs, however there have been cases where DOC has been found in violation and a fine has been issued. With the changes to the fine amounts per violation and the addition that an individual may file civil action against a health care facility in violation of these RCW, DOC may see additional fines and fees associated with this bill if DOC is found in violation of these RCW in the future.

Therefore, DOC assumes an indeterminate fiscal impact of \$50,000 or less.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

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

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

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

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

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

<b>Bill Number:</b> 1868 E 2S HB AMS LCTA S4921.1	<b>Title:</b> Health care staffing	<b>Agency:</b> 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	192.1	760.4
<b>Account</b>					
University of Washington Hospital-Non-Appropriated      505 -6	0	0	0	57,836,400	213,690,222
<b>Total \$</b>	0	0	0	57,836,400	213,690,222

### 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: Jarrett Sacks	Phone: 360-786-7448	Date: 02/25/2022
Agency Preparation: Kelsey Rote	Phone: 2065437466	Date: 03/02/2022
Agency Approval: Kelsey Rote	Phone: 2065437466	Date: 03/02/2022
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 03/03/2022

## 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 fifteen 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).

The bill as passed Senate Labor, Commerce & Tribal Affairs :

- Removes the requirement that the staffing plan developed and overseen by the staffing committee comply with the hospital staffing standards established
- Removes the requirement that a hospital staffing committee review its staffing plan against the ability to meet the staffing standards established under the bill
- Clarifies that while developing a hospital staffing plan, the ability to comply with relevant state and federal laws and rules is not limited only to those regarding meal and rest breaks and use of overtime and on-call shifts.

We do not expect any change to our fiscal note based on these changes.

#### Section 3 - Minimum Staffing Standards (Ratios)

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 beginning two years from the effective date of the bill for UW Medicine.

- 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 engrossed second substitute bill eliminates the registered nurse ratio for cardiac monitoring and amends the ratios for med-surgical (1:5) and telemetry (1:4) units.
- The ratios for certified nursing assistants would range from 1:4 in cardiac and active labor settings to 1:13 in pediatric units. The engrossed second substitute bill eliminates the certified nursing assistant ratio requirements for cardio monitoring and oncology and amends the ratio for the emergency department (1:8) and psychiatric (1:8) units.
- 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 4 - Variance from Minimum Staffing Standards

A variance from the minimum staffing standards can be granted by L&I for “good cause” – if a hospital can establish that compliance is infeasible, and that a variance would not significantly impact the health, safety, and welfare of the involved employees and patients. This section outlines the request and appeal processes, as well as timelines for L&I response and the ability for employees to provide oral or written presentation or request reconsideration.

#### Section 5 - 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. If the staffing committee plan is not adopted by consensus, the hospital is subject to daily fines of \$100 to \$5,000. The staffing plan is to be submitted to L&I on July 1, 2024 and annually thereafter (or when changes are made), and the staffing plan must be implemented in accordance with the plan on July 1, 2024.

#### Section 6 - 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 \$5,000 per day.

#### Section 7. L&I Review of Staffing Plans

This section directs L&I to review hospital staffing plans and assess completeness. Failure to submit the staffing plan or the staffing committee charter by the appropriate deadline results in a violation and civil penalty of \$25,000 – to be deposited into the supplemental pension fund.

#### Section 8 - Meal and Rest Breaks

This section reduces existing exceptions to meal and rest break requirements and expands the categories of staff they apply to. It allows the employee and employer to agree to bundle meal and rest breaks.

#### Section 10 - Mandatory Overtime

This section limits prescheduled on-call shifts to 24 hours per week. Hospitals can qualify for a “reasonable efforts” exemption to mandatory overtime provisions if they make reasonable efforts to retain staff. Hospitals cannot claim this exemption to use mandatory overtime to fill vacancies resulting from staff shortages persisting longer than three months.

#### Section 12 - 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.

### **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.*

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

### STAFFING INCREASES – NURSES & MEDICAL STAFF

UW Medicine assumes that complying with this bill would require, beyond the current FTE committed to in our staffing matrices, 378 FTE in FY25 and 756 FTE in FY26 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 (non-productive time includes breaks, vacation, sick-leave, etc.). The FTE estimates are roughly halved in FY25 to assume compliance beginning January 1, 2025.

#### HARBORVIEW MEDICAL CENTER (HMC)

In order to comply with E2S HB 1868, Harborview would need 174 FTE in FY25 and 347 FTE in FY26 and each year thereafter. These FTE include registered nurses, mental health specialists, hospital assistants, and clinical nurse educators needed for onboarding and to support ongoing education for the additional staff. This would cost approximately \$23.7 million in FY25 and \$47.4 million in FY26 and each year thereafter. These changes reflect the reduction or elimination of certain required staffing ratios in E2S HB 1868.

#### UW MEDICAL CENTER (UWMC)

To comply with 2S HB 1868, UWMC would need 205 FTE in FY25 and 409 FTE in FY26 and each year thereafter. These FTE include registered nurses, patient care technicians, and the clinical nurse educators needed for onboarding and ongoing education. This would cost approximately \$29.0 million in FY25 and \$55.8 million in FY26 and each year thereafter. These changes reflect the reduction or elimination of certain required staffing ratios in E2S HB 1868.

Approximately half of the needed FTE for both hospitals 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 UWMC 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 Harborview FTE will be dependent on the mix of classified staff and contract staff (i.e. traveling nurses) hired, as contract staff typically cost an average of \$100 per hour more than classified staff. We have calculated overall costs of salaries, benefits, and professional service contracts using our current staffing ratio of 87% classified staff and 13% contract staff. However, we do not believe it will be possible to hire the approximately 750 additional clinical FTE at our existing ratio of classified to contract staff. Across UWMC and HMC, we are currently recruiting for 492 open classified staff positions, and the number of contract staff we have had to hire has grown considerably in recent years due to pandemic-associated staffing shortages. True costs will likely be considerably higher than estimated in this fiscal note given an expectation that we would need to hire a higher ratio of contract staff to meet the FTE requirements. 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 \$1.6 million in FY24, \$3.6 million in FY25, and \$4.9 million in FY26, and \$2.3 million in FY27 and each year thereafter. This includes signing bonuses, external recruiter outsourcing, and the salary and benefits of 4 FTE Recruiters per year starting in FY24 (2 FTE each for UWMC and HMC; annual salary: \$85,000 - \$105,000; benefits rate: 29.4%). These costs have decreased from 2S HB 1868, due to the reduced number of FTE required to comply with minimum staffing ratios under E2S HB 1868.

#### TOTAL DETERMINATE COSTS

We estimate that the total determinate costs to comply with this bill would be approximately \$1.6 million in FY24, \$56.3 million in FY25, \$108.1 million in FY26, and \$105.5 million 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.

- \$5,000 fine per day for the failure to adopt the staffing plan by consensus
- \$5,000 fine per day for failure to comply with staffing plan until the hospital submits a corrective action plan and follows the corrective action plan for 90 days (which is equivalent to a \$455,000 fine).

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

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

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**PRESCHEDED ON-CALL TIME – INDETERMINATE**

E2S HB 1868 limits prescheduled on-call time to 24 hours per week, per employee. On-call time is used variably throughout the hospital and is most commonly used in procedural areas and operating rooms. Additional staff would need to be hired to limit overall prescheduled on-call time to 24-hours per week. It is difficult to determine how many additional staff would be needed given the need to assess data at an individual unit and employee level, and the fact that implementing this limitation would likely require the creation of new staffing models that have yet to be developed.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
505-6	University of Washington Hospital	Non-Appropriated	0	0	0	57,836,400	213,690,222
<b>Total \$</b>			0	0	0	57,836,400	213,690,222

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

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years				192.1	760.4
A-Salaries and Wages				34,762,805	127,460,895
B-Employee Benefits				12,426,328	46,685,639
C-Professional Service Contracts				10,647,267	39,543,688
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-					
<b>Total \$</b>	0	0	0	57,836,400	213,690,222

**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				1.0	4.0
CNA Recruiter	85,000				1.5	2.0
Hospital Assistant: Emergency Dept	64,172				4.6	18.4
Hospital Assistant: PACU	64,172				1.0	3.9
Mental Health Specialist: Psychiatry	64,172				6.2	24.7
Nurse Recruiter	105,000				1.5	2.0
Patient Care Tech: Acute Care	64,172				44.5	177.9
Patient Care Tech: Critical Care	64,172				14.6	58.5
Patient Care Tech: Neonatal ICU	64,172				5.6	22.5
Patient Care Tech: Perinatal	64,172				9.3	37.0
Patient Care Tech: Psychiatry	64,172				0.8	3.2
Registered Nurse: Acute Care	95,001				39.2	156.6
Registered Nurse: Critical Care	97,616				19.5	78.1
Registered Nurse: Emergency Dept	96,358				21.7	86.8
Registered Nurse: Neonatal ICU	106,605				5.0	20.1
Registered Nurse: Operating Room	106,526				2.4	9.4
Registered Nurse: PACU	113,935				1.6	6.3
Registered Nurse: Perinatal	106,605				5.2	20.9
Registered Nurse: Psychiatry	110,649				7.0	27.8
<b>Total FTEs</b>					192.2	760.4

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

**Part V: New Rule Making Required**



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1868 E 2S HB AMS LCTA S4921.1	<b>Title:</b> Health care staffing	<b>Agency:</b> 365-Washington State University
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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: Jarrett Sacks	Phone: 360-786-7448	Date: 02/25/2022
Agency Preparation: Emily Green	Phone: 5093359681	Date: 03/02/2022
Agency Approval: Chris Jones	Phone: 509-335-9682	Date: 03/02/2022
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 03/03/2022

## 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 .*

1868-S2.E AMS LCTA - Health Care Staffing Bill relates to the improving worker safety in health care facilities by addressing staffing needs, overtime, meal and rest breaks, and enforcement of these standards.

Washington State University's Student Healthcare Services does not meet the definition of hospital under RCW 70.41.020: institution, place, building, or agency which provides accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

This bill would not fiscally impact WSU.

### 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.*

## 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**

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 1868 E 2S HB AMS LCTA S4921.1	<b>Title:</b> 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:**

Jurisdiction	FY 2022	FY 2023	2021-23	2023-25	2025-27
Special District				53,228,211	145,031,770
<b>TOTAL \$</b>				53,228,211	145,031,770
<b>GRAND TOTAL \$</b>					<b>198,259,981</b>

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

**Part III: Preparation and Approval**

Fiscal Note Analyst: Rebecca Duncan	Phone: 360-725-5040	Date: 03/04/2022
Leg. Committee Contact: Jarrett Sacks	Phone: 360-786-7448	Date: 02/25/2022
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 03/04/2022
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 03/04/2022

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

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

#### **CHANGES FROM PRIOR BILL VERSION**

The amended engrossed bill version would make several changes to Section 5.

- Changes to section 5 would remove the requirement that the staffing plan developed and overseen by the staffing committee comply with the nurse staffing standards established under the bill.
- More changes to this section would remove the requirement that a hospital staffing committee review its staffing plan against the ability to meet the staffing standards established under the bill.
- Further changes to section 5 would clarify, in the factors a staffing committee must consider when developing a staffing plan, that the ability to comply with relevant state and federal laws and rules is not limited only to those regarding meal and rest breaks and use of overtime and on-call shifts.

These changes would have no impact on prior fiscal impact analysis for local governments.

#### **SUMMARY OF CURRENT BILL VERSION**

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 3. 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 4. Variance for Good Cause**

Section 4 would create a process for hospitals to apply for, and L&I to grant, variances from the staffing standards for good cause. “Good cause” means situations where compliance with the staffing standards is infeasible and a variance does not have a significant harmful effect on the health, safety, and welfare of the employees and patients. A hospital may seek a variance by submitting a written application to L&I, and where immediate action is necessary pending further review, L&I may issue a temporary variance.

##### **Section 5. 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 6. 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 \$5,000 per day, except for critical access hospitals.

##### **Section 7. 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 8. Meal and Rest Breaks

This section reduces existing exceptions to meal and rest break requirements and expands the categories of staff they apply to. Specifically, the section states that combining meal and rest breaks is allowed for any work period in which an employee is entitled to one or more meal periods and more than one rest period. In addition, the requirement to provide uninterrupted meal and rest breaks would not apply when there is a clinical circumstance, as determined by the employee that may lead to a significant adverse effect on the patient's condition, unless the employer determines that the patient may suffer life-threatening adverse effects.

## Section 10. 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 12. 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 16. Report to the Legislature

By November 1, 2023, DOH must submit a report to the Legislature assessing the state's alternatives to increase registered nurse licensure reciprocity. The report must include an assessment of current reciprocity laws, compacts, and rules and alternatives to those laws, and information on how military spouses may benefit from a compact or reciprocity. Nurses associations and the Washington State Hospital Association must be consulted, and other stakeholders may be consulted.

Section 21 would provide that this act takes effect January 1, 2023.

Section 22 would provide that, if specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

## **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 indeterminate but significant impacts on local government expenditures due to public hospitals needing create and submit a new staffing plan that meet 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.

### STAFFING IMPACTS

According to the Washington State Hospital Association, there are 39 public hospital district hospitals. This bill would require that all hospitals submit a staffing plan and staffing committee charter consistent with the new staffing requirements in the bill. 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 hire these 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. The salary of an RN can range from \$42/hour to \$60/hour, or up to \$175 if the RN is a travel nurse. The salary of a CNA can range from \$26 to \$31.

The Washington State Hospital Association (WSHA) constructed a model and analysis of the impact of this bill on all hospitals. A summary of their analysis for the impact on public hospitals is presented below :

#### WSHA ANALYSIS: ANNUAL FISCAL IMPACT OF 2SHB 1868 ON PUBLIC HOSPITAL DISTRICTS

Beginning in 2024, only six public hospital districts would be impacted. This is because most public hospital districts qualify as critical access hospitals, sole community hospitals, or have fewer than 25 beds. These six hospitals are projected to need to employ an additional 516 RNs and 422 CNAs as a result of the bill. The total cost would be between \$53 million to \$119 million per year. (Note that UW Valley Medicine is a public hospital district, so it is included in this analysis and not in the UW fiscal note.)

In 2026, all hospitals would need to comply with a projected need for 1,409 RNs and 1,153 CNAs. The total cost would be between \$62 million and \$277 million.

By 2027, it is projected public hospital districts would need to employ an additional 1,879 RNs and 1,537 CNAs to meet the staffing ratios in the bill. The total cost would be between \$82 million and \$369 million per year.

Given this range of staffing ratios (from the current ratio of 15% travel nurses to the anticipated ratio of 25% travel nurses), WSHA has projected the following ranges of total costs to public hospitals due to hospitals increasing staffing:

2025: \$53,228,211 to \$119,913,602

2026: \$62,340,922 to \$277,584,882

2027: \$82,690,848 to \$369,680,979

Note: For this fiscal note, the staffing costs assuming 15% of staff would be travel nurses are included in the grid showing estimated operating budget expenditures, as this is the minimum cost anticipated to impact public hospitals. The cost could be higher if 25%, or even more, of hospital staff would be travel nurses, but the precise ratio of future nurses cannot be determined at this time.

#### WSHA ANALYSIS: ASSUMPTIONS

The WSHA model applies to acute care hospitals, including children's hospitals, rural, public hospital district hospitals, and critical access hospitals, and it excludes state run, military, rehabilitation, and free-standing behavioral health or psychiatric facilities. The model also assumes complete uninterrupted meal and rest breaks for all CNAs and RNs and that the bill's proposed nurse-to-patient and CNA-to-patient ratios are in effect 24 /7. The model also assumes this bill would necessitate increased use of traveling nurses to meet the mandatory minimum staffing ratios. Current state requires a balance of 85% employed nurses to 15% contracted/travel nurses. With the implementation of staffing ratios, WSHA estimates an increase in the use of contracted/traveler nurses to 75% employed and 25% contracted/travel nurses. WSHA did not model the financial impact of civil monetary penalties or litigation costs associated with the private right of action.

#### FINES

In addition to the work required to increase staffing in public hospitals, this bill would establish fines that hospitals would need to pay if they did not comply with the bill or violated the bill. While the Local Government Fiscal Note Program assumes that no hospital intends to be noncompliant with or in violation of the bill, some hospitals may be unable to fulfill the requirements of the bill due to limited staff, limited time, and unforeseen circumstances. 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 would be indeterminate.

### **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

Washington State Hospital Association

Washington State Hospital Association – Fiscal Impact Modeling for HB 1868 /SB 5751