

Multiple Agency Fiscal Note Summary

Bill Number: 5267 SB	Title: Railroad workers
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Administrative Hearings	0	0	36,000	0	0	36,000	0	0	36,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	36,000	0	0	36,000	0	0	36,000

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	Fiscal note not available											
Office of Administrative Hearings	.1	0	0	36,000	.1	0	0	36,000	.1	0	0	36,000
Department of Labor and Industries	1.1	0	0	378,000	.5	0	0	181,000	.5	0	0	154,000
Total \$	1.2	0	0	414,000	0.6	0	0	217,000	0.6	0	0	190,000

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	Fiscal note not available								
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

Prepared by: Anna Minor, OFM	Phone: (360) 790-2951	Date Published: Preliminary
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Individual State Agency Fiscal Note

Bill Number: 5267 SB	Title: Railroad workers	Agency: 110-Office of Administrative Hearings
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Hearings Revolving Account-State 484-1	18,000	18,000	36,000	36,000	36,000
Total \$	18,000	18,000	36,000	36,000	36,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.1	0.1	0.1	0.1
Account					
Administrative Hearings Revolving Account-State 484-1	18,000	18,000	36,000	36,000	36,000
Total \$	18,000	18,000	36,000	36,000	36,000

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: 01/12/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 01/17/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 01/17/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/17/2023

Part II: Narrative Explanation

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

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

Section 4 guarantees 12 workweeks of leave during any 12-month period for (1) the birth, adoption, or foster placement of the employee's child, or (2) the employee's serious health condition, rendering the employee unable to perform the functions of his/her position. Prerequisites apply, specifically, the employee must have worked six months and at least 504 hours during the previous 12 months or have been assigned to and worked on a guaranteed extra call board for the previous 12 months and been paid for at least 60% of the applicable total monthly guarantee and for at least 504 hours.

Section 5 guarantees employees unpaid time off for diagnosis, care or treatment of employees' mental or physical illness, injury, or health condition, as well as the care of a family member. Unpaid time off is also guaranteed for the closure of the employee's or employee's spouse's/domestic partner's place of business or child's school or daycare by a public official for a health-related reason. Conditions apply here as well. The employee must have completed three consecutive months of continuance employment prior to the absence. Additionally, the employee cannot take more than 15 consecutive absence days and is maxed out at 90 absence days for this and paid sick leave in the current calendar year. Employers may require employees to provide verification for absences under certain circumstances. This leave is separate from Paid Family Medical Leave (PFML) and may not be the cause for discipline or adverse action against the employee.

Section 6 guarantees up to seven days of unpaid bereavement leave for a deceased family member or extended family member as set out therein. Employers may require proof of death and may provide additional paid or unpaid time off for bereavement purposes.

Section 7 sets out the parameters of intermittent sick leave or leave on a reduced leave schedule. It also provides that employers may require employees taking such leave to temporarily transfer to an available alternative position at the same location that s/he is qualified for, that has equivalent pay and benefits, and that better accommodates the employee's intermittent leave schedule.

Section 8 provides that the leave guaranteed under Section 4 does not impact employees' right to PFML and must be taken concurrently with any PFML or Family and Medical Leave Act leave unless the employer expressly permits otherwise.

Section 9 sets out notice requirements for the employee when the need for leave is foreseeable, and when it is not. Under Section 11, employers may require employees to submit a medical certification from his/her health care provider stating the nature and probable duration of the serious health condition for which leave is sought, among other information. Employers may require the employee to get a second opinion from another health care provider, and a third opinion under certain circumstances, at the employer's expense, as well as recertifications as reasonable.

Section 12 provides employees taking sick leave with job protection, as well as protection of accrued seniority and other employment benefits. However, employers may deny job protection under certain circumstances to salaried employees who are among the highest paid 10% within 75 miles of the facility where the employee is employed. Section 14 prohibits retaliation against employees exercising their right to sick leave or participating in enforcement proceedings.

Section 15 sets out the Department of Labor & Industries' (L&I) enforcement process, beginning with an employee's complaint, and the ensuing investigation. L&I may assess civil penalties, as well as back pay and reinstatement, if it determines a violation has occurred. Under Section 16, those issued a citation and notice of assessment may appeal to the L&I Director, who will assign it to the Office of Administrative Hearings for a hearing in accordance with Chapter 34.05 RCW and issuance of an initial order.

Section 20 requires employers to conspicuously post a notice setting out pertinent provisions of this new law, along with information pertaining to filing a charge. Failing to properly post this notice subjects employers to civil penalties.

This bill has an emergency clause and is assumed to be effective immediately.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

As a central service agency, the Office of Administrative Hearings (OAH) bills referring agencies for its costs and collects the revenue into the Administrative Hearings Revolving Account. Cash receipts are assumed to equal costs. OAH will bill the Department of Labor & Industries 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

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

The Attorney General's Office has projected for the Department of Labor & Industries (L&I) that this proposed legislation is assumed to result in six new appeals being referred to the Office of Administrative Hearings (OAH) per Fiscal Year beginning in FY 2024.

This law will go into effect immediately if passed. However, there will be a period of several months before complaints get through the investigative process at L&I and then make their way to OAH. Appeals could arrive as early as the last quarter of FY 2023. These costs are not assumed.

On average, each appeal is expected to take approximately 13.1 hours of line Administrative Law Judge (ALJ) time including prehearing conferences, hearings, order writings, etc.

Office of Administrative Hearings (OAH) Agency Workforce Assumptions:

- (1) The Governors proposed COLA increases in FY2024 and FY2025, and Collective Bargaining Agreement increases are not included in agency cost projections. Additional funding is required if these proposals are enacted.
- (2) Ratio of 1.0 FTE line ALJ to 0.15 Senior ALJ (SALJ), to 0.6 Legal Assistant 2 (LA2) (Range 40 step L), to 0.25 administrative support Management Analyst 5 (MA5) (Range 64 Step L).
- (3) 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.)
- (4) Benefit rates were analyzed by job class and projected using the latest benefit information available.
- (5) Goods and services, travel and on-going capital outlays were projected based on historical data for each of the job classifications.

Total workload impact beginning in FY 2024: 0.06 ALJ at a cost of \$18,000 per FY.

This bill has an emergency clause and is assumed to be effective immediately.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
484-1	Administrative Hearings Revolving Account	State	18,000	18,000	36,000	36,000	36,000
	Total \$		18,000	18,000	36,000	36,000	36,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.1	0.1	0.1	0.1
A-Salaries and Wages	11,000	11,000	22,000	22,000	22,000
B-Employee Benefits	4,000	4,000	8,000	8,000	8,000
C-Professional Service Contracts					
E-Goods and Other Services	3,000	3,000	6,000	6,000	6,000
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	18,000	18,000	36,000	36,000	36,000

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 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Law Judge	106,152	0.1	0.1	0.1	0.1	0.1
Total FTEs		0.1	0.1	0.1	0.1	0.1

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)	18,000	18,000	36,000	36,000	36,000
Total \$	18,000	18,000	36,000	36,000	36,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5267 SB	Title: Railroad workers	Agency: 235-Department of Labor and Industries
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

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

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.6	0.5	1.1	0.5	0.5
Account					
Accident Account-State 608-1	233,000	88,000	321,000	153,000	130,000
Medical Aid Account-State -1 609	41,000	16,000	57,000	28,000	24,000
Total \$	274,000	104,000	378,000	181,000	154,000

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: 01/12/2023
Agency Preparation: Allison Kaech	Phone: 360-902-4530	Date: 01/20/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 01/20/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 01/22/2023

Part II: Narrative Explanation

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

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

See attached

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

See attached

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

See attached

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
608-1	Accident Account	State	233,000	88,000	321,000	153,000	130,000
609-1	Medical Aid Account	State	41,000	16,000	57,000	28,000	24,000
	Total \$		274,000	104,000	378,000	181,000	154,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.6	0.5	1.1	0.5	0.5
A-Salaries and Wages	126,000	37,000	163,000	74,000	74,000
B-Employee Benefits	46,000	14,000	60,000	28,000	28,000
C-Professional Service Contracts					
E-Goods and Other Services	100,000	51,000	151,000	75,000	48,000
G-Travel	2,000	2,000	4,000	4,000	4,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	274,000	104,000	378,000	181,000	154,000

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 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Rules Analyst 4	85,020	1.0		0.5		
Fiscal Analyst 5	71,520	0.1		0.1		
Industrial Relations Agent 3	69,756	0.5	0.5	0.5	0.5	0.5
Total FTEs		1.6	0.5	1.1	0.5	0.5

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

None

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/re revise existing rules.

See attached

Part II: Explanation

This bill creates the Safe Leave Act for Washington Railroad workers, granting several types of unpaid leave to railroad employees.

This bill is effective immediately.

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

Section 14: Retaliation prohibited

This section makes it unlawful for an employee to interfere with, restrain, or deny the exercise or attempted exercise of this chapter. Retaliation for the exercise of rights also prohibited.

Retaliation for filing complaints, giving information in connection with an inquiry or proceeding, or testifying also prohibited.

Section 15: Enforcement

This section requires Labor & Industries (L&I) to investigate allegation of non-compliance within this chapter, and to issue civil penalties against violating employers.

Section 16: Appeals

This section provides appeal procedures, consistent with those found in the Wage Payment Act (RCW 49.48.084) and requires appeals to be in accordance with the Administrative Procedures Act.

Section 17: Collections authority

This section establishes collection authority for L&I in accordance with section 18 of this act.

Section 18: Collections procedures

Establishes collections procedures, consistent with those found in the Wage Payment Act (RCW 49.48.086) and authorizes filing fees and surcharges for warrants filed.

Section 20: Required poster

Requires employers to post a poster containing notice of the provisions of this bill. Employers who willfully violate this section may be subject to a civil penalty up to \$1,000. Penalty money goes to the Supplemental Pension Fund in Title 51.

II. B – Cash Receipt Impact

Receivables – Operating

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

II. C – Expenditures

Appropriated – Operating Costs

This proposed bill increases expenditures to the Accident Account, fund 608, and Medical Aid Account, fund 609. The following assumptions were used to estimate the resources requested to implement this bill.

Based on new input provided by the Attorney General's Office, L&I is estimating a resource need for this bill due to complex litigation around this industry. Previous fiscal estimates were noted as minimal impact within existing resources.

Staffing

0.5 FTE, Industrial Relations Agent 3 (IRA3), permanent, effective July 1, 2023. Duties include investigating complaints of non-compliance, conducting outreach efforts, and establishing investigative procedures and operations manuals for leaves granted by this bill, developing the required poster, and serve as the statewide subject matter expert and consultant for matters relating to this bill and the rights granted thereunder.

- Complaints under this bill will be most analogous to Protected Leave complaints currently investigated by L&I. The 90-day timeline is also comparable to some other investigative timelines for laws currently administered by L&I's protected leave specialist.

- There are approximately 3,000 workers working for railroad carriers (according to ESD occupational data). Identified subtypes of workers include:
 - SOC 49-3043: 369 employees
 - SOC 47-4061: 422 employees
 - SOC 53-4022: 386 employees
 - SOC 53-4031: 1279 employees
 - SOC 49-9097: 203 employees
- Given the availability of wage data for SOC 53-4099, but no employee count, we assume that the number of employees identified in ESD data understates the true number of potentially covered workers due to privacy or other reasons.
- The complaint rate here will likely be higher than that found for the Wage Payment Act. Under the department's current wage enforcement law, roughly 6,200 of the state's 3.2 million workers file a complaint per year, for a complaint rate of 0.2%.
- The Protected Leave Specialist conducts approximately 50 similar investigations per year.

Analysis:

- Applying the 0.2% projected complaint rate of eligible workers to the population of covered workers (3,000), yields 6 complaints per year (0.2% complaint rate X 3,000 covered workers = 6 complaints per year)
- Based on current investigative workload, this results in approximately 0.1 FTE solely based on complaint load (6 complaints / 50 complaints Protected Leave Specialist conducts = 0.12)
- However, the novelty and complexity of this law, the related outreach needs, and because the complaint rate here will likely be higher than data provided for the Wage Payment Act, this will increase the needed staff resource by at least 0.4 FTE, yielding a total FTE need of 0.5 FTE.

1.0 FTE, Administrative Rules Analyst 4 (ARA4), temporary, effective July 1, 2023 – June 30, 2024. Duties include conducting rulemaking, public hearings, drafting administrative policies, developing technical guidance and outreach publications for stakeholders.

- Controversial stakeholdering, rulemaking, and policy activities will be complex in nature and require full-time staff until these tasks are complete. L&I does not currently have any ARAs who do not already oversee a full portfolio of policy and rulemaking projects, therefore there is no ARAs who can absorb the full-time work required to oversee the new stakeholdering, policy, and rulemaking tasks created by this bill.

Information Technology

At this time, IT resources are not needed. However, if complaints are higher than estimated, IT resources may be needed to modify and enhance multiple internal systems and create a new system for Leave Complaint Applications (LPA). Existing systems that would require enhancements include: Verify-a-Contractor, Account Receivable and Collections (ARC) and Front Counter (FC)

Printing & Mailing

\$2,200 is needed for printing, mailing and translation costs for:

- Printing 1,000 posters at \$0.50 each for a total cost of \$500, to be spent in fiscal year 2024.
- Mailing 1,000 posters at \$1.00 each for a total cost of \$1,000, to be spent in fiscal year 2024.
- Translating seven standard languages at \$100 per language for a total cost of \$700, to be spent in fiscal year 2024.

Rulemaking

\$10,000 is needed for four rulemaking hearings to occur during the summer and fall of 2023. The average cost of one rule making hearing is \$2,500 (4 hearings x \$2,500 each = \$10,000).

Attorney General – Legal Services

\$53,000 is needed for fiscal year 2024, and \$27,000 for fiscal years 2025 and 2026 for legal services related to implementation, investigations, enforcement and litigation under this bill.

Administrative Hearings

\$18,000 is needed per fiscal year for 0.06 administrative law judge beginning in FY2024 to handle six new appeals being referred to the Office of Administrative Hearings per fiscal year.

Indirect Costs

The amount included in this fiscal note for indirect is:

Fund Name		FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
608	Accident	8,600	2,900	2,900	2,900	2,900	2,900
609	Medical Aid	1,500	500	500	500	500	500
	Total:	\$10,100	\$3,400	\$3,400	\$3,400	\$3,400	\$3,400

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

New WAC rules will need to be developed to implement Section 11 of this bill.