

Multiple Agency Fiscal Note Summary

Bill Number: 5348 SB	Title: Distribution centers
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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 Attorney General	0	0	106,000	0	0	106,000	0	0	106,000
Office of Administrative Hearings	0	0	61,000	0	0	122,000	0	0	122,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	167,000	0	0	228,000	0	0	228,000

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	.4	0	0	106,000	.4	0	0	106,000	.4	0	0	106,000
Office of Administrative Hearings	.2	0	0	61,000	.4	0	0	122,000	.4	0	0	122,000
Department of Labor and Industries	2.2	0	0	1,399,000	2.1	0	0	876,000	2.1	0	0	876,000
Total \$	2.8	0	0	1,566,000	2.9	0	0	1,104,000	2.9	0	0	1,104,000

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	.0	0	0	.0	0	0	.0	0	0
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

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

Bill Number: 5348 SB	Title: Distribution centers	Agency: 100-Office of Attorney General
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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
Legal Services Revolving Account-State 405-1	53,000	53,000	106,000	106,000	106,000
Total \$	53,000	53,000	106,000	106,000	106,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.4	0.4	0.4	0.4
Account					
Legal Services Revolving Account-State 405-1	53,000	53,000	106,000	106,000	106,000
Total \$	53,000	53,000	106,000	106,000	106,000

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: Susan Jones	Phone: 360-786-7404	Date: 01/13/2023
Agency Preparation: Dave Merchant	Phone: 360-753-1620	Date: 01/23/2023
Agency Approval: Dianna Wilks	Phone: 360-709-6463	Date: 01/23/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/23/2023

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 1: Definitions.

Section 2: Employer must provide employees written descriptions of quotas, adverse action if employees fail to meet quotas, incentives if they do meet quotas. Must be written plainly in employee's preferred language.

Section 3: Quotas cannot interfere with rights to lunch or expose employees to the Occupational Safety and Health Administration (OSHA) or Washington Industrial Safety and Health Act (WISHA) violations including bathrooms, meal locations, etc. Quotas that expose employees to WISHA violations are themselves WISHA violations. No retaliation for failure to meet quotas that don't meet bill's requirements.

Section 4: Employee actions to exercise right to safe workplace are considered time on task. Meal breaks are not time on task unless employer requires employee to be in a specific place. Rest breaks are time on task.

Section 5: Employee has right to ask for info and own data on quotas.

Section 6: Adverse actions within 90 days of exercising rights create rebuttable presumption of wrongful retaliation.

Section 7: The Department of Labor and Industries (L&I) will investigate and cite based on complaints or on own. Procedural details. Penalties. Money to state and to employee.

Section 8: Rights of appeal.

Section 9: State can send to collections.

Section 10: Subpoena power.

Section 11: Safety committee of employee must meet.

Section 12: Rulemaking authorized.

Section 13: Savings clause.

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.

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 and Industries (L&I). The Attorney General's Office (AGO) will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO budget.

AGO AGENCY ASSUMPTIONS:

L&I will be billed for Seattle rates:

FY 2024: \$53,000 for 0.02 Assistant Attorney General (AAG), and 0.01 Legal Assistant (LA), and in each FY thereafter.

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.

Attorney General's Office (AGO) Agency Assumptions:

Legal services associated with the enactment of this bill will begin on July 1, 2023.

Location of staffing housed is assumed to be in Seattle office buildings.

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

Agency administration support FTE are included in the tables, for every 1.0 Assistant Attorney General FTE (AAG), the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 FTE of a Management Analyst 5 (MA). The MA is used as a representative classification.

The AGO Labor and Industries Division (LNI) Division has reviewed this bill and determined the following impact related to the enactment of this bill:

This bill addresses Break, Wage, & Administrative violations:

The program estimates there were approximately 1,597 Meal and Rest period complaints in 2021. Dividing 1,597 Meal and Rest period complaints by 3,962,171 (the estimated amount of workers employed in 2021), the program's Rest and Meal period complaint rate is approximately .0004. $156,700$ (affected workers) \times .0004 (complaint rate for Meal and Rest period complaints) = anticipated 63 Break complaints. The program estimates there are approximately 777 Administrative Violations (AV) complaints a year (average of AV complaints over past three years; 2019—2021). Dividing the average of 777 AV complaints by 3,524,381 (the average amount of workers in WA State; 2019—2021), the program's AV complaint rate is approximately .0002. $156,700$ (affected workers) \times .0002 (complaint rate for AVs) = anticipated 31 AV complaints. The program estimates there were approximately 6,675 Wage complaints in 2021. Dividing 6,675 Wage complaints by 3,962,171 (the estimated amount of workers in 2021), the program's Wage complaint rate is approximately .002. $156,700$ (affected workers) \times .002 (complaint rate for Wage complaints) = 313 anticipated Wage complaints. For a total of 407 appeals of similar complexity. Historical 14 percent of completed investigations result in an appealable order. This rate will result in 57 final orders. The appeal rate for comparable Notice of Violation (NOA) is 20 percent. This will result in 11 new appeals for these types of appeals. Appeals of this complexity generally require 0.2 FTE per 10 appeals.

This bill also addresses Retaliation violations:

The program anticipates there will be an additional 11 Retaliation complaints as a result of this bill passing. The program estimates there are approximately 238 Retaliation complaints a year (average of Retaliation complaints over past 3 years; 2019—2021). Dividing the average of 238 Retaliation complaints by 3,524,381 (the average amount of workers in WA State; 2019—2021), the program's Retaliation complaint rate is approximately .000068. $156,700$ (affected workers) \times .000068 (complaint rate for Retaliation complaints) = anticipated 11 additional Retaliation complaints. Based on historical averages for retaliation, we would anticipate only a handful of retaliation appeals. New legal services are nominal and costs are not included in this request.

LNI will also need to provide immediate complex legal advice for implementation, policy making, and rulemaking, which will require 0.1 AAG FTE. Using figures based on current AAG FTEs for employment standards and including additional advice, LNI believes this will require an additional 0.1 AAG FTE related implementation beginning July 1, 2022 in anticipation of July 1, 2023 effective date and increased appeals of the wage & break violations L&I already enforces even before the new provisions are effective. The most significant implementation work will conclude by July 1, 2024. FY 2023 LNI costs are considered nominal and costs are not included in this request. However, the ongoing work on these complex matters in FY 2024 and beyond will require an ongoing 0.2 AAG FTE to address litigation because the program anticipates a higher appeal rate and more extensive litigation given the group of employers described by the statute.

LNI total FTE workload impact for Seattle rates:

FY 2024: \$53,000 for 0.2 AAG, and 0.1 LA, and in each FY thereafter.

The AGO Solicitor General’s Office has reviewed this bill and determined it will not significantly increase or decrease the division’s workload. New legal services are nominal and costs are not included in this request.

The AGO Labor and Personnel Division has reviewed this bill and determined it will not significantly increase or decrease the division’s workload. New legal services are nominal and costs are not included in this request.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services Revolving Account	State	53,000	53,000	106,000	106,000	106,000
Total \$			53,000	53,000	106,000	106,000	106,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.4	0.4	0.4	0.4
A-Salaries and Wages	36,000	36,000	72,000	72,000	72,000
B-Employee Benefits	11,000	11,000	22,000	22,000	22,000
E-Goods and Other Services	6,000	6,000	12,000	12,000	12,000
Total \$	53,000	53,000	106,000	106,000	106,000

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
Assistant Attorney General-Seattle	124,635	0.2	0.2	0.2	0.2	0.2
Legal Assistant 3-Seattle	67,044	0.1	0.1	0.1	0.1	0.1
Management Analyst 5	91,524	0.1	0.1	0.1	0.1	0.1
Total FTEs		0.4	0.4	0.4	0.4	0.4

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Labor & Industries Division (LNI)	53,000	53,000	106,000	106,000	106,000
Total \$	53,000	53,000	106,000	106,000	106,000

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: 5348 SB	Title: Distribution centers	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		61,000	61,000	122,000	122,000
Total \$		61,000	61,000	122,000	122,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.4	0.2	0.4	0.4
Account					
Administrative Hearings Revolving Account-State 484-1	0	61,000	61,000	122,000	122,000
Total \$	0	61,000	61,000	122,000	122,000

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: Susan Jones	Phone: 360-786-7404	Date: 01/13/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 01/18/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 01/18/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/18/2023

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 2 requires each employer to provide each employee with a written, detailed description of each quota that applies to him/her, any potential adverse employment action for failing to meet the quota, and any incentives or bonuses for meeting or exceeding the quota. This written description must be given at the time of hire, and at least annually thereafter, as well as at least two working days prior to the effective date of any modification to the existing quota(s). “Employers” for purposes of this bill are those who employ or exercise control over large numbers of employees, specifically, at least 180 employees at a single warehouse, or at least 1,200 employees among several warehouses in Washington State.

Section 3 provides that employees may not be required to meet a quota that interferes with their meal or rest periods. Section 3 also prohibits discrimination, retaliation, or adverse action against employees for failing to meet an improperly disclosed quota or a quota that interfered with their meal or rest periods. If an employee believes that meeting a quota interfered with his/her rights to meal and rest breaks, Section 5 authorizes the employee to request a written description of each applicable quota, and a copy of the employee’s personal work speed data over the prior 90 days. The employer must respond within a specified time period and in a specific manner.

Section 6 identifies when a rebuttable presumption of unlawful retaliation applies.

Section 7 calls for the Department of Labor and Industries (L&I) to investigate complaints and impose civil penalties for violations.

Section 8 provides that appeals of this L&I action will be assigned to the Office of Administrative Hearings (OAH) to conduct hearings and issue initial orders.

OAH activities associated with the enactment of this bill will begin on July 1, 2024.

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 Department of Labor & Industries (L&I) estimates that the proposed legislation will result in 22 new appeals being referred to the Office of Administrative Hearings (OAH) per fiscal year beginning in FY 2025. 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.

L&I assumes 11 Break, Wage, & Administrative violations and 11 Retaliation violations will be referred to OAH for appeals.

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 2025: 0.21 ALJ at a cost of \$34,901; 0.03 SALJ at a cost of \$5,646; 0.13 LA2 at a cost of \$12,589; 0.05 MA5 at a cost of \$7,782. Total rounded cost: \$61,000.

OAH activities associated with the enactment of this bill will begin on July 1, 2024.

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	0	61,000	61,000	122,000	122,000
Total \$			0	61,000	61,000	122,000	122,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.4	0.2	0.4	0.4
A-Salaries and Wages		37,000	37,000	74,000	74,000
B-Employee Benefits		12,000	12,000	24,000	24,000
C-Professional Service Contracts					
E-Goods and Other Services		11,000	11,000	22,000	22,000
G-Travel					
J-Capital Outlays		1,000	1,000	2,000	2,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	61,000	61,000	122,000	122,000

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		0.2	0.1	0.2	0.2
Legal Assistant 2	50,592		0.1	0.1	0.1	0.1
Management Analyst 5	91,524		0.1	0.0	0.1	0.1
Senior Administrative Law Judge	117,168		0.0	0.0	0.0	0.0
Total FTEs			0.4	0.2	0.4	0.4

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)		61,000	61,000	122,000	122,000
Total \$		61,000	61,000	122,000	122,000

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: 5348 SB	Title: Distribution centers	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	2.7	2.2	2.1	2.1
Account					
Accident Account-State 608-1	751,000	427,000	1,178,000	744,000	744,000
Medical Aid Account-State 609-1	145,000	76,000	221,000	132,000	132,000
Total \$	896,000	503,000	1,399,000	876,000	876,000

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: Susan Jones	Phone: 360-786-7404	Date: 01/13/2023
Agency Preparation: Crystal Van Boven	Phone: 360-902-6982	Date: 01/27/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 01/27/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/01/2023

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	751,000	427,000	1,178,000	744,000	744,000
609-1	Medical Aid Account	State	145,000	76,000	221,000	132,000	132,000
Total \$			896,000	503,000	1,399,000	876,000	876,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.6	2.7	2.2	2.1	2.1
A-Salaries and Wages	124,000	185,000	309,000	282,000	282,000
B-Employee Benefits	46,000	71,000	117,000	110,000	110,000
C-Professional Service Contracts	317,000		317,000		
E-Goods and Other Services	377,000	241,000	618,000	472,000	472,000
G-Travel	2,000	6,000	8,000	12,000	12,000
J-Capital Outlays	30,000		30,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	896,000	503,000	1,399,000	876,000	876,000

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 Regulations Analyst 4	85,020	1.0	0.5	0.8		
Fiscal Analyst 5	80,952	0.1	0.2	0.2	0.1	0.1
Industrial Relations Agent 2	66,420	0.5	2.0	1.3	2.0	2.0
Total FTEs		1.6	2.7	2.2	2.1	2.1

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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.

See attached

Part II: Explanation

This bill would:

- Provides new protections related to quotas for employees working at warehouse distribution centers with 180 or more employees at one location or 1,200 or more employees at warehouse distribution centers in the state. Farm product warehousing and storage is exempt.
- Employers would have to provide employees with a written description of quotas, and any potential adverse employment actions/incentives/bonus programs related to the quota.
- Employees are not required to meet quotas that interfere with their rights to meal or rest periods and bathroom breaks, including travel time, or that expose them to occupational health or safety hazards.
- This bill would prohibit retaliation and discrimination against employees who fail to meet a quota that violates their rights or that the employer hasn't disclosed.

This act takes effect July 1, 2024.

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

Section 2 (1)

Requires employers to provide employees with:

- A written description of each quota to which the employee is subject, including the quantified number of tasks to be performed or materials to be produced or handled, within the defined time period.
- Any potential adverse employment action that could result from failure to meet the quota.
- Any incentives or bonus programs associated with meeting or exceeding the quota.

Section 2 (2)

- Provides the department with rulemaking authority to set formatting, plain language, and access requirements for the description of quotas.

Section 2 (3)

- Requires employers to provide quota information at different stages of an employee's employment, which includes:
 - Upon hire
 - At least annually
 - Not less than 2 working days prior to the effective date of any modification of existing quotas

Section 3 (1)

Prohibits employers from implementing quotas that interfere with an employee's rights to meal and rest periods; or exposes employees to occupational safety and health hazards violating requirements under RCW 49.17 and applicable rules, including bathroom facility access and travel time to bathrooms, break rooms, meal break locations, and access to tools and safety equipment necessary to perform their duties.

Section 3 (2)

Prohibits warehouse distribution center employers from discriminating, retaliating, or taking any adverse action against an employee for failing to meet quota(s) that prevented the employee from exercising their rights to meal and rest periods; or exposes employees to occupational safety and health hazards violating requirements under RCW 49.17 and applicable rules; or a quota that has not been disclosed to employees as described under Section 2.

Section 4 (1)

Any actions taken by an employee to exercise their rights to occupational safety and health hazards violating requirements under RCW 49.17 are considered time on task and productive time.

Section 4 (2)

Meal breaks are not considered time on task or productive time unless the employee is required by the employer to remain on duty on the premises or prescribed work site in the interest of the employer.

Section 4 (3)

Rest breaks are considered time on task productive time.

Section 5 (1)

Allows current warehouse employees to request information from their employer pertaining to their work speed data if they believe they failed to satisfy a quota which interfered with the employee's rights to meal and rest periods; or exposed employees to occupational safety and health hazards violating requirements under RCW 49.17 and applicable rules. The employer must provide the employee with a copy of their most recent 90 days of work speed data.

Section 5 (2)

Requires employers to respond to the employee's request (via oral or written request) for work speed data information within 21 calendar days from the date of the request.

Section 5 (3)

The written description must comply with Section, Subsection 2, and be presented in an understandable manner.

Section 5 (4)

This bill does not require an employer to use quotas or monitor employee work speed data. An employer that does not monitor this data has no obligation to provide it.

Section 6

Employees requesting about their quota and work speed data or makes a complaint to authorities for violations of sections 3 through 6, there is a rebuttable presumption of unlawful retaliation if their employer discriminates, retaliates, or takes any adverse action against any employee within 90 days of the actions described.

Section 7 (1)

Violations of Section 3 (1) or Section 4 (1) will be enforced through RCW 49.17 or complaints of violations for the requirement for a safety committee meeting at least quarterly under section 12 of this act shall be implemented and enforced, including penalties violation, citations, and other administrative procedures, pursuant to Washington Industrial Safety and Health Act, chapter 49.17 RCW. An employer who fails to allow adequate inspection of records in an inspection by the department within a reasonable time period may not use such records in an appeal to challenge the correctness of any citation and notice issued by the department.

Section 7 (2)

The department must investigate if an employee files a complaint with the department alleging a violation under the proposed laws or applicable rules adopted.

- The department may not investigate any such alleged violation of rights that occurred more than three 3 years before the date that the employee filed the complaint.
- If an employee files a timely complaint with the department, the department must investigate the complaint and issue either a citation and notice of assessment, or a closure letter within 90 days after the date on which the department received the complaint, unless the complaint is otherwise resolved.
 - The department must send the citation and notice of assessment or the closure letter to both the employer and the employee by service of process or using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

Section 7 (3)

The department will issue a closure letter if the department's investigation finds that the employee's allegation cannot be substantiated.

Section 7 (4)

The director may initiate an investigation without an employee's complaint to ensure compliance with proposed laws.

Section 7 (5)

Excluding Subsection 1 of this section, a civil penalty of not less than \$1,000 will be assessed for each violation an employer is found to have violated a requirement of the proposed laws and applicable rules. Civil penalties must be collected by the department and deposited into the supplemental pension fund established under RCW 51.44.033.

Section 8 (1)

Except for the Division of Occupation Safety and Health (DOSH) violations, an employer cited for violation under this new section has 30 days to appeal. If the citation and notices is not appealed within that time period, then it becomes a final order.

Section 8 (2)

An appeal will stay the effectiveness of the citation pending the final review of the appeal.

Section 8 (3)

An appeal will be conducted within accordance with chapter 34.05 RCW.

Section 8 (4)

A final order shall be issued and is subject to judicial review.

Section 8 (5)

Orders that are not appealed timely are final and binding.

Section 8 (6)

An employer who fails to allow adequate inspection of records during an inspection by the department, within a reasonable time period, may not use such records in any appeal to challenge the correctness of any citation and notice issued by the department.

Section 9

Except as provided in section 7(1) of this act, if any person fails to pay an assessment under this chapter, or under any rule under this chapter, after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the director may initiate collection procedures in accordance with the collection procedures under RCW 49.48.086.

Section 12

The department may adopt and implement rules to carry out and enforce the provisions of this chapter.

II. B – Cash Receipt Impact

Receivables – Operating

The proposed bill requires penalties received by L&I to be deposited in the Supplemental Pension Fund. The increase to revenue is indeterminate due to variables including, how many complaints will be received and how many of these cases will result in penalties.

II. C – Expenditures

Appropriated – Operating Costs

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

Staffing

1.0 FTE, Administrative Regulations Analyst 4 (ARA4), temporary from July 1, 2023 through December 30, 2024. Duties include: Rulemaking, conducting hearings and policy drafting.

2.0 FTEs, Industrial Relations Agent 2 (IRA2), Permanent, Starting April 1, 2024, Duties Include: Investigate complaints for specific workers related to: the notification of quotas and required information on such notifications; complaints where an employee is subject to a quota which resulted in the employer violating the employee's rights to meal and rest breaks. Complaint/violation types relate to: rest and meal periods, wage, AV, and retaliation.

Workload Indicators

- 156,700 estimated workers affected
- 240 average cases an employee can complete in a year
- 87 average retaliation cases an employee can complete in a year.
- 1,597 meal and rest period complaints in 2021
- 777 administrative violation complaints/year (average of complaints 2019-2021)
- 6,675 wage complaints in 2021
- 238 retaliation complaints/year (average of complaints 2019-2021)

L&I estimates:

An additional 63 meal and rest period complaints. ($1,597 / 3,962,171$ estimated number of workers employed in 2021 = .0004. $156,700 \times .0004 = 63$ complaints. $63/240 = 0.3$ FTE).

An additional 31 administrative violation complaints ($777/3,524,381$ average number of workers in 2019-2021 = .0002, $156,700 \times .0002 = 31$, $31/240 = 0.13$ FTE).

An additional 313 wage violation complaints ($6,675/3,962,171$ estimated number of workers in 2021 = .002, $156,700 \times .002 = 313$, $313/240 = 1.3$ FTEs).

An additional 11 retaliation complaints ($238/3,524,381$ the average amount of workers in 2019-2021 = .000068, $156,700 \times .000068=11$, $11/87 = 0.13$ FTE)

Information Technology

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 2023-25 biennium.

This bill provides new protections related to quotas for employees working at warehouse distribution centers with 180 or more employees at one location or 1,200 or more employees at

warehouse distribution centers in the state. The information technology work is a candidate for SaaS/COTS procurement that could take 8 months to deliver, including procurement process. This will require IT contact support for project management, business analysis, solution architecture, web design and integration with existing Complaints Activity Tracking System (CATS), Accounts Receivable and Collections System (ARC) and Front Counter applications.

During the 2022, Legislative session, the department estimated a total IT cost of \$935,000 for SSB 5891, Warehouse Distribution Centers. This bill is the same as SB 5348 with minor changes. Previously, the IT estimate assumed custom development. This year, the estimate will leverage a Software as a Solution platform by adding the additional complaint types to the platform which will deliver the system needs much faster than the old, custom build approach.

A total of \$577,000 is needed in the 2023-25 biennium for all information technology changes. This includes:

- Contractor costs – \$275,228 is needed for 1850 contractor hours
- QA – \$41,500
- Software – \$350,000 (ongoing costs include \$100,000 per year in fiscal years 2026 – 2029)

Outreach Campaign

\$30,000 is needed for a social media campaign to inform workers and potential workers in this high-turnover industry of these new rights.

Rule making

\$12,500 is needed for 5 rule making hearings to occur during FY24. The average cost of one rule making hearing is \$2,500. (5 hearings x \$2,500 each = \$12,500)

Attorney General – Legal Services

The AGO assumes \$53,000 per fiscal year ongoing starting in FY 2024.

Administrative Hearings

Office of Administrative Hearings assumes these costs relating to SB 5348, beginning in FY 2025:

0.21 Administrative Law Judge (ALJ) at a cost of \$34,901; 0.03 Senior ALJ at a cost of \$5,646; 0.13 LA2 at a cost of \$12,589; 0.05 MA5 at a cost of \$7,782. Total rounded cost: \$61,000.

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	8,500	13,000	11,000	11,000	11,000	11,000
609	Medical Aid	1,500	3,000	2,000	2,000	2,000	2,000
	Total:	\$10,000	\$16,000	\$13,000	\$13,000	\$13,000	\$13,000

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

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

This legislation would result in rule changes to:

- RCW 49.17
- RCW 51.44.033
- RCW 49.48.086
- RCW 34.05